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July 19, 2007

Via Federal Express Delivery

State Water Resources Control Board
Office of Chief Counsel
Attn.: Ms. Elizabeth Miller-Jennings
1001 "I" Street, 22nd Floor
Sacramento, CA 95814

**Re: Oroville Landfill Properties, et al.
Central Valley Regional Water Quality Control Board Order No. R5-2007-
0042
Oroville Landfill Properties Class III Wood Waste Landfill,
Butte County, CA
AMENDED PETITION FOR REVIEW/REQUEST TO PRESENT
SUPPLEMENTAL EVIDENCE**

Dear Ms. Miller-Jennings:

Pursuant to our phone conversation on this date and the State Water Board's position that July 5, 2007 will be considered as the date of the applicable regional water board action that is the subject of our petition for review, please accept this letter as an Amended Petition for Review/Request To Present Supplemental Evidence.

As we discussed, July 5, 2007 is to be considered the date that the Central Valley Regional Water Quality Control Board ("CVRWQCB") established with certainty the obligations in the above-referenced Waste Discharge Requirements ("WDRs") for Petitioner to maintain financial assurances for both the clean-closure of the Oroville Landfill as well as for thirty years of post-closure maintenance thereafter. The July 5, 2007 letter from James Pedri, CVRWQCB Assistant Executive Officer, to this Firm is attached to our Petition for Review as Exhibit E. It was agreed during our phone conversation that this letter had the aforementioned effect despite the discussion in Mr. Pedri's letter only referencing post-closure maintenance financial assurances. As stated in our petition and in the WDRs issued to our client, the CVRWQCB, by those WDRs and as of July 5, 2007, required financial assurances in the amount of \$1,602,376.00 to be maintained for clean-closing the Oroville Landfill and financial assurances in the amount of \$1,427,218.00 to be maintained for thirty years of post-closure maintenance. Total financial assurances, therefore, submitted by our client and enforced by the WDRs, as of July 5, 2007, therefore, are \$3,133,494.00. See Petition for Review, Ex. A, Nos. 31-32, pp. 5-6.

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Page Two

We appreciate the willingness of the State Water Resources Control Board to make the filing of this amended petition convenient by advising that the filing of a new document with exhibits will not be necessary. As agreed, the presentation of this letter containing identified amendments to the original petition would be sufficient.

Amended Petition for Review:

We incorporate, by reference the contents of Sections 1, 2 and 5-7 of our Petition For Review/Request To Present Supplemental Evidence (with Exhibits) received by the State Water Board on July 12, 2007 herein and amend that petition as described below:

Introductory Paragraph:

The introductory paragraph, on page 1 of the original petition for review, is amended to state as follows:

PETITIONER Oroville Landfill Properties, Oroville Landfill Properties LLC, Jack M Steebles LLC, Carol Ann Seidenglanz LLC and Stephen Conn Seidenglanz LLC (hereinafter referred to as "Petitioner") submits this Amended Petition for Review pursuant to California Water Code Section 13320 and Title 23 Section 2050 of the California Code of Regulations (CCR).

3. The Date On Which The Regional Board Acted

Section 3 is amended to state as follows:

23 CCR Section 2050(a)(3) requires a Petition for Review to state the date on which a regional water board acted or refused to take action when requested to do so.

The action took place on July 5, 2007. *See e.g.* Amended Petition for Review, Ex. A, Nos. 31-32, pp. 5-6 (WDRs); Ex. E (July 5, 2007 letter)

4. A Full and Complete Statement of the Reasons The Action Was Inappropriate

The text of Section 4 is substantially the same as that in the original petition for review. Several amendments, however, to that section were necessary to include the above-referenced agreement with the State Water Board on July 17, 2007. Amendments to Section 4 are underlined for quick reference and Section 4 is amended to state as follows.

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23 CCR Section 2050(a)(4) requires a Petition for Review to contain full and complete statement of the reasons the regional water board action was inappropriate. To the extent that the narratives contained in this Section reference the legal argument contained in Section 7, Petitioner incorporates that Section herein by reference.

The CVRWQCB's requirement, enforced by the WDRs, obligating Petitioner to present \$1,602,376 in financial assurances to close the Oroville Landfill, is the product of a CVRWQCB directive issued under threat of administrative fines, to Petitioner. *See* Ex. A, No. 31, p. 5.¹ Those financial assurances are not the "current cost estimate" required to be presented pursuant to 27 CCR Section 22206(a) to demonstrate financial responsibility for closing a landfill. Petitioner submitted a current cost estimate for clean-closure of the Oroville Landfill to the CVRWQCB on May 1, 2006 and estimated that task, inclusive of five years of groundwater monitoring, to cost approximately \$236,000. A true and correct copy of relevant excerpts of the April 28, 2006 *Response to Information Request, March 15, 2006, Oroville Landfill Properties, Oroville Class III Landfill, Butte County* is attached hereto as Exhibit C (*see e.g.* item 6, p. 3 and section 6 attached thereto).² The CVRWQCB, however, refused to accept Petitioner's clean-closure cost estimate stating that Title 27 did not provide a method for establishing appropriate financial assurances for "clean closure activities." A true and correct copy of a CVRWQCB letter to Petitioner, dated May 26, 2006 and entitled "Request For Information Pursuant To Section 13267 of The California Water Code, Oroville Landfill Properties, et al., Oroville Landfill Properties, Class III Wood Waste Landfill, Butte County" is attached hereto as Exhibit D. The CVRWQCB, instead, imposed a prior cost estimate upon Petitioner that they submitted on February 25, 2004. *See* Ex. D. That cost estimate was submitted by Petitioner to update a previous cost estimate submitted by Louisiana Pacific, the former owner of the Oroville Landfill when the latter entity proposed to close that site with thirty years of post-closure maintenance to follow. *Id.* The February 25, 2004 document contained a closure cost estimate in the amount of \$1,255,097.97. *Id.* The associated cost estimate for post-closure maintenance was \$1,372,530.00. *Id.* The CVRWQCB's reliance upon the February 25, 2004 cost estimate is suspicious since, as stated, that updated cost estimate was associated with the intent of the former property owner, Louisiana Pacific, to close the Oroville Landfill and implement post-closure maintenance thereafter. Petitioner, however, requested to clean-close the Oroville Landfill and,

¹ Section 4 discusses certain acts and statements by CVRWQCB staff that displayed misconduct and unprofessionalism toward the general public. As stated at the conclusion of this Section and in the section of this brief entitled "Request To Present Supplemental Evidence," Petitioner is willing to meet with SWRCB representatives to discuss those incidents. Petitioner will submit supporting declarations if preferred by the SWRCB in lieu of a meeting.

² Certain information contained in this document is confidential under a prior assertion of the trade secret privilege and has not been submitted to the SWRCB. *See* footnote 3, *infra*. Relevant excerpts from this document have been attached to this petition. Petitioner will submit the entire document, inclusive of protected portions upon request from the SWRCB and upon arrangements being made to protect the aforementioned confidentiality of the information contained therein.

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on May 1, 2006, submitted a current cost estimate as required under 27 CCR Section 22206(a). Petitioner contacted CVRWQCB staff after receipt of the May 26, 2007 letter and objected to the requirement of submitting financial assurances as though they were closing the Oroville Landfill. CVRWQCB staff ordered compliance with the May 26, 2007 directive and threatened Petitioner with administrative fines at the rate of \$1,000 per day if compliance did not occur. CVRWQCB staff, during that phone conversation, also displayed objectionable and unprofessional conduct by referring to Petitioner's environmental consultant as "incompetent."

Furthermore, as explained in Section 7A, of this amended petition, the CVRWQCB's requirement, enforced by the WDRs, directing Petitioner to present \$1,427,218.00 in financial assurances to cover thirty years of post-closure maintenance is contrary to Title 27 of the California Code of Regulations. *See* Ex. A, Nos. 31-32, pp. 5-6. A discharger proposing to clean close a landfill is only required to present financial assurances for post-closure maintenance upon the determination by a regional water board that the discharger's clean-closure efforts were unsuccessful to accomplish the objective of that process described in 27 CCR Sections 20950(a)(2)(B) and 21090(f). *See* 27 CCR §§ 21810(e)(2) 21090(f).

The gross injustice of the obligation upon Petitioner to maintain \$3,133,494 in financial assurances pursuant to the WDRs is compounded the misconduct of CVRWQCB staff in demanding the presentation of those assurances. As stated above, Petitioner contacted CVRWQCB staff, shortly after the issuance of its May 26, 2006 letter to inquire why they were being required to present financial assurances as though intending to close the Oroville Landfill with thirty years of post-closure maintenance thereafter. Petitioner objected to the CVRWQCB's directive, the CVRWQCB's rejection of their April 28, 2006 current cost estimate to clean-close that site and the CVRWQCB's imposition of the aforementioned February 25, 2004 cost estimate upon them. CVRWQCB staff advised Petitioner that the CVRWQCB would not rely upon the \$236,000 cost estimate submitted by SCS Engineers on May 1, 2006. CVRWQCB staff further advised Petitioner that they would be fined at a rate of \$1,000 per day if they did not comply with the CVRWQCB's May 26, 2006 directive to submit a revised cost estimate for closure and post-closure maintenance of the Oroville Landfill. *See e.g.* Ex. D. CVRWQCB staff, during that phone conversation, also displayed objectionable and unprofessional conduct by referring to Petitioner's environmental consultant as "incompetent." CVRWQCB staff also, prior to Petitioner's purchase of the Oroville Landfill warned Petitioner against purchasing that property. A true and correct copy of a July 5, 2007 CVRWQCB letter generally referencing the aforementioned advisory by CVRWQCB staff is attached hereto as Exhibit E (*see e.g.* p. 2). Neither the SWRCB nor the CVRWQCB should tolerate such conduct by regional water board staff toward the general public. Moreover, such statements by CVRWQCB staff, coupled with the questionable statements and acts described herein demonstrate a bias toward the proposed clean-closure of the Oroville Landfill and suggest a intent to thwart Petitioner's clean-closure process through abuses of regional water quality control board authority.

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Petitioner, in connection with their request to clean-close the Oroville Landfill, advised CVRWQCB staff of the need to obtain WDRs for that process as quickly as possible yet in compliance with all legal requirements. Petitioner even provided CVRWQCB staff with contracts and related documentation demonstrating the economic hardships that it would experience if issuance of the clean-closure WDRs for the Oroville Landfill and implementation of that process was delayed.³ The CVRWQCB, nevertheless, knowingly delayed the issuance of the WDRs by such means as unreasonably imposing incorrect and excessive financial assurance obligations upon the Petitioner, contrary to applicable provisions in Title 27 of the California Code of Regulations.

CVRWQCB staff also unreasonably delayed the finalization of the WDRs when originally published in draft form. That delay only gave Petitioner several days to review that draft document prior to the initiation of the public comment period. The untimely preparation of the WDRs in draft form and publication to Petitioner by CVRWQCB staff precluded Petitioner from further challenging the financial assurances to be enforced by that document. *See* Ex. A, Nos. 31-32, pp. 506. As stated above, the CVRWQCB knew of Petitioner's need for the clean-closure WDRs to be issued as soon as possible so as to meet its contractual obligations. CVRWQCB staff nevertheless insisted on maintaining the unreasonable and incorrect interpretation of Title 27 regulations discussed in Section 7A, *infra*. CVRWQCB staff, as stated above, delayed his preparation of the draft WDRs and associated draft Monitoring and Reporting Program and admitted that he "screwed up" by not preparing those draft documents more expeditiously. CVRWQCB staff also offered to further discuss the financial assurance obligations to be contained in the WDRs, but advised that such ongoing discussions would require the approval of the WDRs to be placed CVRWQCB's calendar of contested actions to be heard at the CVRWQCB's June Board Meeting. Petitioner could not agree to that request since the financial hardships and difficulties complying with contractual obligations known to CVRWQCB staff would be magnified if approval of the WDRs was calendared for a later CVRWQCB public hearing.

Petitioner is willing to meet with SWRCB representatives regarding the incidents of misconduct by CVRWQCB staff described above. The questionable course of conduct by CVRWQCB staff, as discussed herein, demonstrates bias toward Petitioner's intent to clean-close the Oroville Landfill and raises significant concern to Petitioner that CVRWQCB staff may engage in further burdensome and unreasonable acts of interference to thwart and/or jeopardize clean-closure efforts.

³ Those documents are confidential under a prior assertion of the trade secret privilege. The CVRWQCB is keeping those documents separate from the public file for the Oroville Landfill site to prevent waiver of that privilege. The CVRWQCB can provide those documents to the SWRCB, if necessary. Petitioner requests that the SWRCB and the CVRWQCB adhere to the existing agreement to keep all documents designated as "confidential" out of its public file for this appeal to preserve the confidentiality of Petitioner's documents.

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The action occurred on July 5, 2007 pursuant to an agreement with the State Water Resources Control Board on the subject of when the obligations in the WDRs to maintain financial assurances for both clean-closing of the Oroville Landfill and allegedly thirty years of post-closure maintenance thereafter became definite, certain, and enforceable. *See e.g.* Ex. A, No. 31, pp. 5-6 (which sets forth the financial assurances required from petitioner and states “[t]he Discharger and the Regional Water board are currently engaged in negotiations regarding the amount of financial assurances described herein. These negotiations may result in the financial assurances being adjusted accordingly.”); Ex. A, No. 32, p. 6; Ex. E (July 5, 2007 letter). The aforementioned agreement with the State Water Resources Control Board encompasses all issues originally submitted in Petitioner’s original petition for review even though the July 5, 2007 letter only discussed the obligation in the WDRs for financial assurances in connection with alleged post-closure maintenance. As stated above, the State Water Board’s position implicates the obligations in the WDRs to present financial assurances for both the clean-closure work to be performed and the alleged post-closure maintenance phase. *See* Ex. A, Nos. 31-32, pp.5-6. Those obligations in the WDRs, pursuant to the agreement with the State Water Board, therefore, became definite and certain as of July 5, 2007, the date, as stated in Section 3, above, the regional water board acted.

8. Statement of Notification To the Central Valley Regional Water Quality Control Board

Section 8 of the Petition for Review/Request to Present Supplemental Evidence is amended to state as follows:

23 CCR Section 2050(a)(8) requires a Petition for Review to contain a statement that the petition has been sent to the appropriate regional board and to the discharger, if not the petitioner.

As demonstrated by the proof of service attached to the original petition for review, that document was mailed to the CVRWQCB’s Redding Branch Office on July 10, 2007. As demonstrated by the attached proof of service, this amended petition was served via U.S. Mail on July 18, 2007 with courtesy copies sent to the same individuals via U.S. mail on the same date.

9. A Statement That The Substantive Issues Raised In The Petition Were Raised Before The Regional Board

Section 8 of the Petition for Review/Request to Present Supplemental Evidence is amended to state as follows:

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23 CCR Section 2050(a)(9) requires a Petition for Review to contain "a statement that the substantive issues or objections raised in the petition were raised before the regional board or an explanation of why the petitioner was not require or was unable to raise these substantive issues or objections before the regional board."

The dispute between the CVRWQCB and Petitioner concerning the amount of financial assurances required under Title 27 to clean close the Oroville Landfill has been ongoing prior to the issuance of the WDRs. As described in Section 4, above, negotiations with CVRWQCB staff continued when the WDRs were published in draft form. Those efforts were documented in the WDRs, which state:

"The Discharger and the Regional Water Board are currently engaged in negotiations regarding the amount of financial assurances described herein. These negotiations may result in the financial assurances being adjusted accordingly." *See* Ex. A, No. 31, pp. 5-6.

These negotiations also continued after the CVRWQCB adopted and subsequently issued the WDRs up to and including July 5, 2007, the date the obligation in the WDRs for maintaining the financial assurances described in the WDRs became definite and certain for both the clean-closure phase and the allegedly required post-closure maintenance phase. *See* Exhibits D and E. The CVRWQCB is willing to establish certain "milestones" for the release of financial assurances required by the WDRs. *See* Ex. D. Petitioner reserves the right to continue those negotiations despite filing this Petition for Review challenging the underlying legal basis for the financial assurances required by the WDRs. *See e.g.* Ex. A, Nos. 31-32, pp. 5-6.

REQUEST TO PRESENT SUPPLEMENTAL EVIDENCE
(23 CCR § 2050.6)

Petitioner, in Sections 4 and 7 of their Amended Petition for Review, presents testimonial evidence regarding unprofessional statements and threats made by CVRWQCB staff. Petitioner, in Section 4, offers to meet with SWRCB representatives to discuss those events. Petitioner will provide supporting declarations to the SWRCB if requested in lieu of a meeting and requests authorization to do so pursuant to the provisions of 23 CCR Section 2050.6.

CONCLUSION

Petitioner amends their conclusion to state as follows:

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Petitioner, for the reasons set forth herein, respectfully requests that the SWRCB grant the relief requested in Section 6 of their Amended Petition for Review.

Dated: July 19, 2007

LANAHAN & REILLEY LLP

By



KEITH T. ULAND

Attorneys for Petitioner

Oroville Landfill Properties, Oroville

Landfill Properties LLC, Jack M Steebles LLC,

Carol Ann Seidenglanz LLC and Stephen Conn

Seidenglanz LLC

Enclosures: 1 (proof of service)

cc (with enclosure):

Client (via e-mail)

Pamela Creedon, Executive Officer, Central Valley Regional Water Quality Control Board (via e-mail pcreedon@waterboards.ca.gov)

James Pedri, Asst. Executive Officer, Central Valley Regional Water Quality Control Board, Redding Office (via U.S. Mail and e-mail jpatri@waterboards.ca.gov)

Loren Harlow, Asst. Executive Officer, Central Valley Regional Water Quality Control Board, Fresno Office (via e-mail lhallow@waterboards.ca.gov)

Frances McChesney, Office of Chief Counsel (via e-mail fmcchesney@waterboards.ca.gov)

Michele DeCristoforo, Office of Chief Counsel (via e-mail mdecristoforo@waterboards.ca.gov)

Patrick Pulupa, Office of Chief Counsel, (ppulupa@waterboards.ca.gov)

Elizabeth Miller-Jennings, Office of Chief Counsel (bjennings@waterboards.ca.gov)

PROOF OF SERVICE

I am a citizen of the United States. My business address is 600 Bicentennial Way, Suite 300, Santa Rosa, California, 95403. I am employed in the county of Sonoma where this service occurs. I am over the age of 18 years and not a party to the within cause.

On July 19, 2007, I served the following document(s) described as:

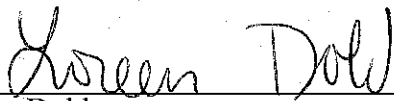
AMENDED PETITION FOR REVIEW OF WASTE DISCHARGE REQUIREMENTS AND REQUEST TO PRESENT SUPPLEMENTAL EVIDENCE UNDER 22 CCR SECTION 2050.6

- ☒ **BY MAIL:** I am readily familiar with my employer's normal business practice of collection and processing of correspondence for mailing. Under that practice, correspondence is deposited with the U.S. Postal Service that same day in a sealed envelope(s) with postage thereon fully prepaid at Santa Rosa, California, in the ordinary course of business.
- ☐ **BY FAX:** I served said document(s) by transmitting via facsimile from facsimile number (707) 523-4610 to the facsimile number(s) set forth below, or as stated on the attached service list, on this date before 5:00 p.m. A statement that this document was successfully transmitted without error is hereby attached to the Proof of Service.
- ☐ **BY PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s).
- ☐ **BY OVERNIGHT DELIVERY:** I caused such envelope(s) to be delivered on the same day to an authorized courier or driver or to a regular box or other facility regularly maintained by **FEDERAL EXPRESS** with delivery fees provided for, addressed to the person(s) on whom it is to be served.

James C. Pedri, P.E.
California Regional Water Quality Control Board
Central Valley Region, Redding Branch Office
415 Knollcrest Drive, Suite 100
Redding, CA 96002

- ☒ **STATE:** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 19, 2007, at Santa Rosa, California.


Loreen Dold

LAW OFFICES
**LANAHAN
REILEY** LLP

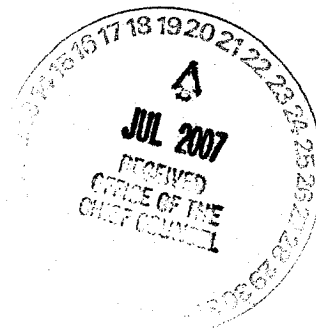
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Attn.: Ms. Elizabeth Miller-Jennings
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**Re: Oroville Landfill Properties, et al.
Central Valley Regional Water Quality Control Board Order No. R5-2007-0042
Oroville Landfill Properties Class III Wood Waste Landfill,
Butte County, CA
AMENDED PETITION FOR REVIEW/REQUEST TO PRESENT
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Dear Ms. Miller-Jennings:

Pursuant to our phone conversation on this date and the State Water Board's position that July 5, 2007 will be considered as the date of the applicable regional water board action that is the subject of our petition for review, please accept this letter as an Amended Petition for Review/Request To Present Supplemental Evidence.

As we discussed, July 5, 2007 is to be considered the date that the Central Valley Regional Water Quality Control Board ("CVRWQCB") established with certainty the obligations in the above-referenced Waste Discharge Requirements ("WDRs") for Petitioner to maintain financial assurances for both the clean-closure of the Oroville Landfill as well as for thirty years of post-closure maintenance thereafter. The July 5, 2007 letter from James Pedri, CVRWQCB Assistant Executive Officer, to this Firm is attached to our Petition for Review as Exhibit E. It was agreed during our phone conversation that this letter had the aforementioned effect despite the discussion in Mr. Pedri's letter only referencing post-closure maintenance financial assurances. As stated in our petition and in the WDRs issued to our client, the CVRWQCB, by those WDRs and as of July 5, 2007, required financial assurances in the amount of \$1,602,376.00 to be maintained for clean-closing the Oroville Landfill and financial assurances in the amount of \$1,427,218.00 to be maintained for thirty years of post-closure maintenance. Total financial assurances, therefore, submitted by our client and enforced by the WDRs, as of July 5, 2007, therefore, are \$3,133,494.00. *See* Petition for Review, Ex. A, Nos. 31-32, pp. 5-6.

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We appreciate the willingness of the State Water Resources Control Board to make the filing of this amended petition convenient by advising that the filing of a new document with exhibits will not be necessary. As agreed, the presentation of this letter containing identified amendments to the original petition would be sufficient.

Amended Petition for Review:

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Introductory Paragraph:

The introductory paragraph, on page 1 of the original petition for review, is amended to state as follows:

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3. The Date On Which The Regional Board Acted

Section 3 is amended to state as follows:

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The action took place on July 5, 2007. *See e.g.* Amended Petition for Review, Ex. A, Nos. 31-32, pp. 5-6 (WDRs); Ex. E (July 5, 2007 letter)

4. A Full and Complete Statement of the Reasons The Action Was Inappropriate

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Furthermore, as explained in Section 7A, of this amended petition, the CVRWQCB's requirement, enforced by the WDRs, directing Petitioner to present \$1,427,218.00 in financial assurances to cover thirty years of post-closure maintenance is contrary to Title 27 of the California Code of Regulations. *See* Ex. A, Nos. 31-32, pp. 5-6. A discharger proposing to clean close a landfill is only required to present financial assurances for post-closure maintenance upon the determination by a regional water board that the discharger's clean-closure efforts were unsuccessful to accomplish the objective of that process described in 27 CCR Sections 20950(a)(2)(B) and 21090(f). *See* 27 CCR §§ 21810(e)(2) 21090(f).

The gross injustice of the obligation upon Petitioner to maintain \$3,133,494 in financial assurances pursuant to the WDRs is compounded the misconduct of CVRWQCB staff in demanding the presentation of those assurances. As stated above, Petitioner contacted CVRWQCB staff, shortly after the issuance of its May 26, 2006 letter to inquire why they were being required to present financial assurances as though intending to close the Oroville Landfill with thirty years of post-closure maintenance thereafter. Petitioner objected to the CVRWQCB's directive, the CVRWQCB's rejection of their April 28, 2006 current cost estimate to clean-close that site and the CVRWQCB's imposition of the aforementioned February 25, 2004 cost estimate upon them. CVRWQCB staff advised Petitioner that the CVRWQCB would not rely upon the \$236,000 cost estimate submitted by SCS Engineers on May 1, 2006. CVRWQCB staff further advised Petitioner that they would be fined at a rate of \$1,000 per day if they did not comply with the CVRWQCB's May 26, 2006 directive to submit a revised cost estimate for closure and post-closure maintenance of the Oroville Landfill. *See e.g.* Ex. D. CVRWQCB staff, during that phone conversation, also displayed objectionable and unprofessional conduct by referring to Petitioner's environmental consultant as "incompetent." CVRWQCB staff also, prior to Petitioner's purchase of the Oroville Landfill warned Petitioner against purchasing that property. A true and correct copy of a July 5, 2007 CVRWQCB letter generally referencing the aforementioned advisory by CVRWQCB staff is attached hereto as Exhibit E (*see e.g.* p. 2). Neither the SWRCB nor the CVRWQCB should tolerate such conduct by regional water board staff toward the general public. Moreover, such statements by CVRWQCB staff, coupled with the questionable statements and acts described herein demonstrate a bias toward the proposed clean-closure of the Oroville Landfill and suggest a intent to thwart Petitioner's clean-closure process through abuses of regional water quality control board authority.

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Petitioner, in connection with their request to clean-close the Oroville Landfill, advised CVRWQCB staff of the need to obtain WDRs for that process as quickly as possible yet in compliance with all legal requirements. Petitioner even provided CVRWQCB staff with contracts and related documentation demonstrating the economic hardships that it would experience if issuance of the clean-closure WDRs for the Oroville Landfill and implementation of that process was delayed.³ The CVRWQCB, nevertheless, knowingly delayed the issuance of the WDRs by such means as unreasonably imposing incorrect and excessive financial assurance obligations upon the Petitioner, contrary to applicable provisions in Title 27 of the California Code of Regulations.

CVRWQCB staff also unreasonably delayed the finalization of the WDRs when originally published in draft form. That delay only gave Petitioner several days to review that draft document prior to the initiation of the public comment period. The untimely preparation of the WDRs in draft form and publication to Petitioner by CVRWQCB staff precluded Petitioner from further challenging the financial assurances to be enforced by that document. *See* Ex. A, Nos. 31-32, pp. 506. As stated above, the CVRWQCB knew of Petitioner's need for the clean-closure WDRs to be issued as soon as possible so as to meet its contractual obligations. CVRWQCB staff nevertheless insisted on maintaining the unreasonable and incorrect interpretation of Title 27 regulations discussed in Section 7A, *infra*. CVRWQCB staff, as stated above, delayed his preparation of the draft WDRs and associated draft Monitoring and Reporting Program and admitted that he "screwed up" by not preparing those draft documents more expeditiously. CVRWQCB staff also offered to further discuss the financial assurance obligations to be contained in the WDRs, but advised that such ongoing discussions would require the approval of the WDRs to be placed CVRWQCB's calendar of contested actions to be heard at the CVRWQCB's June Board Meeting. Petitioner could not agree to that request since the financial hardships and difficulties complying with contractual obligations known to CVRWQCB staff would be magnified if approval of the WDRs was calendared for a later CVRWQCB public hearing.

Petitioner is willing to meet with SWRCB representatives regarding the incidents of misconduct by CVRWQCB staff described above. The questionable course of conduct by CVRWQCB staff, as discussed herein, demonstrates bias toward Petitioner's intent to clean-close the Oroville Landfill and raises significant concern to Petitioner that CVRWQCB staff may engage in further burdensome and unreasonable acts of interference to thwart and/or jeopardize clean-closure efforts.

³ Those documents are confidential under a prior assertion of the trade secret privilege. The CVRWQCB is keeping those documents separate from the public file for the Oroville Landfill site to prevent waiver of that privilege. The CVRWQCB can provide those documents to the SWRCB, if necessary. Petitioner requests that the SWRCB and the CVRWQCB adhere to the existing agreement to keep all documents designated as "confidential" out of its public file for this appeal to preserve the confidentiality of Petitioner's documents.

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The action occurred on July 5, 2007 pursuant to an agreement with the State Water Resources Control Board on the subject of when the obligations in the WDRs to maintain financial assurances for both clean-closing of the Oroville Landfill and allegedly thirty years of post-closure maintenance thereafter became definite, certain, and enforceable. *See e.g.* Ex. A, No. 31, pp. 5-6 (which sets forth the financial assurances required from petitioner and states “[t]he Discharger and the Regional Water board are currently engaged in negotiations regarding the amount of financial assurances described herein. These negotiations may result in the financial assurances being adjusted accordingly.”); Ex. A, No. 32, p. 6; Ex. E (July 5, 2007 letter). The aforementioned agreement with the State Water Resources Control Board encompasses all issues originally submitted in Petitioner’s original petition for review even though the July 5, 2007 letter only discussed the obligation in the WDRs for financial assurances in connection with alleged post-closure maintenance. As stated above, the State Water Board’s position implicates the obligations in the WDRs to present financial assurances for both the clean-closure work to be performed and the alleged post-closure maintenance phase. *See* Ex. A, Nos. 31-32, pp.5-6. Those obligations in the WDRs, pursuant to the agreement with the State Water Board, therefore, became definite and certain as of July 5, 2007, the date, as stated in Section 3, above, the regional water board acted.

8. **Statement of Notification To the Central Valley Regional Water Quality Control Board**

Section 8 of the Petition for Review/Request to Present Supplemental Evidence is amended to state as follows:

23 CCR Section 2050(a)(8) requires a Petition for Review to contain a statement that the petition has been sent to the appropriate regional board and to the discharger, if not the petitioner.

As demonstrated by the proof of service attached to the original petition for review, that document was mailed to the CVRWQCB’s Redding Branch Office on July 10, 2007. As demonstrated by the attached proof of service, this amended petition was served via U.S. Mail on July 18, 2007 with courtesy copies sent to the same individuals via U.S. mail on the same date.

9. **A Statement That The Substantive Issues Raised In The Petition Were Raised Before The Regional Board**

Section 8 of the Petition for Review/Request to Present Supplemental Evidence is amended to state as follows:

July 19, 2007

Page Seven

23 CCR Section 2050(a)(9) requires a Petition for Review to contain "a statement that the substantive issues or objections raised in the petition were raised before the regional board or an explanation of why the petitioner was not require or was unable to raise these substantive issues or objections before the regional board."

The dispute between the CVRWQCB and Petitioner concerning the amount of financial assurances required under Title 27 to clean close the Oroville Landfill has been ongoing prior to the issuance of the WDRs. As described in Section 4, above, negotiations with CVRWQCB staff continued when the WDRs were published in draft form. Those efforts were documented in the WDRs, which state:

"The Discharger and the Regional Water Board are currently engaged in negotiations regarding the amount of financial assurances described herein. These negotiations may result in the financial assurances being adjusted accordingly." *See* Ex. A, No. 31, pp. 5-6.

These negotiations also continued after the CVRWQCB adopted and subsequently issued the WDRs up to and including July 5, 2007, the date the obligation in the WDRs for maintaining the financial assurances described in the WDRs became definite and certain for both the clean-closure phase and the allegedly required post-closure maintenance phase. *See* Exhibits D and E. The CVRWQCB is willing to establish certain "milestones" for the release of financial assurances required by the WDRs. *See* Ex. D. Petitioner reserves the right to continue those negotiations despite filing this Petition for Review challenging the underlying legal basis for the financial assurances required by the WDRs. *See e.g.* Ex. A, Nos. 31-32, pp. 5-6.

REQUEST TO PRESENT SUPPLEMENTAL EVIDENCE
(23 CCR § 2050.6)

Petitioner, in Sections 4 and 7 of their Amended Petition for Review, presents testimonial evidence regarding unprofessional statements and threats made by CVRWQCB staff. Petitioner, in Section 4, offers to meet with SWRCB representatives to discuss those events. Petitioner will provide supporting declarations to the SWRCB if requested in lieu of a meeting and requests authorization to do so pursuant to the provisions of 23 CCR Section 2050.6.

CONCLUSION

Petitioner amends their conclusion to state as follows:

July 19, 2007

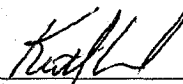
Page Eight

Petitioner, for the reasons set forth herein, respectfully requests that the SWRCB grant the relief requested in Section 6 of their Amended Petition for Review.

Dated: July 19, 2007

LANAHAN & REILLEY LLP

By



KEITH T. ULAND

Attorneys for Petitioner

Oroville Landfill Properties, Oroville

Landfill Properties LLC, Jack M Steebles LLC,

Carol Ann Seidenglanz LLC and Stephen Conn
Seidenglanz LLC

Enclosures: 1 (proof of service)

cc (with enclosure):

Client (via e-mail)

Pamela Creedon, Executive Officer, Central Valley Regional Water Quality Control Board (via e-mail pcreedon@waterboards.ca.gov)

James Pedri, Asst. Executive Officer, Central Valley Regional Water Quality Control Board, Redding Office (via U.S. Mail and e-mail jpeditri@waterboards.ca.gov)

Loren Harlow, Asst. Executive Officer, Central Valley Regional Water Quality Control Board, Fresno Office (via e-mail lharlow@waterboards.ca.gov)

Frances McChesney, Office of Chief Counsel (via e-mail fmcchesney@waterboards.ca.gov)

Michele DeCristoforo, Office of Chief Counsel (via e-mail mdecristoforo@waterboards.ca.gov)

Patrick Pulupa, Office of Chief Counsel, (ppulupa@waterboards.ca.gov)

Elizabeth Miller-Jennings, Office of Chief Counsel (bjennings@waterboards.ca.gov)

PROOF OF SERVICE

I am a citizen of the United States. My business address is 600 Bicentennial Way, Suite 300, Santa Rosa, California, 95403. I am employed in the county of Sonoma where this service occurs. I am over the age of 18 years and not a party to the within cause.

On July 19, 2007, I served the following documents(s) described as:

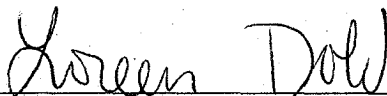
AMENDED PETITION FOR REVIEW OF WASTE DISCHARGE REQUIREMENTS AND REQUEST TO PRESENT SUPPLEMENTAL EVIDENCE UNDER 22 CCR SECTION 2050.6

- ☒ **BY MAIL:** I am readily familiar with my employer's normal business practice of collection and processing of correspondence for mailing. Under that practice, correspondence is deposited with the U.S. Postal Service that same day in a sealed envelope(s) with postage thereon fully prepaid at Santa Rosa, California, in the ordinary course of business.
- ☐ **BY FAX:** I served said document(s) by transmitting via facsimile from facsimile number (707) 523-4610 to the facsimile number(s) set forth below, or as stated on the attached service list, on this date before 5:00 p.m. A statement that this document was successfully transmitted without error is hereby attached to the Proof of Service.
- ☐ **BY PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s).
- ☐ **BY OVERNIGHT DELIVERY:** I caused such envelope(s) to be delivered on the same day to an authorized courier or driver or to a regular box or other facility regularly maintained by **FEDERAL EXPRESS** with delivery fees provided for, addressed to the person(s) on whom it is to be served.

James C. Pedri, P.E.
California Regional Water Quality Control Board
Central Valley Region, Redding Branch Office
415 Knollcrest Drive, Suite 100
Redding, CA 96002

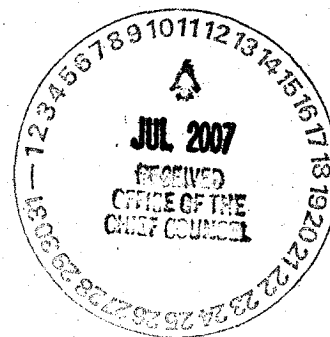
- ☒ **STATE:** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 19, 2007, at Santa Rosa, California.


Loreen Dold

SCOTT L. STEEVER, SBN 180189
KEITH T. ULAND, SBN 215010
LANAHAN & REILLEY LLP
600 Bicentennial Way, Suite 300
Santa Rosa, California 95403
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OROVILLE LANDFILL PROPERTIES,
OROVILLE LANDFILL PROPERTIES LLC,
JACK M STEEBLES LLC, CAROL ANN
SEIDENGLANZ LLC and STEPHEN
CONN SEIDENGLANZ LLC



STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

OROVILLE LANDFILL PROPERTIES,
OROVILLE LANDFILL PROPERTIES LLC,
JACK M STEEBLES LLC, CAROL ANN
SEIDENGLANZ LLC AND STEPHEN CONN
SEIDENGLANZ LLC,

Petitioners,

v.

CENTRAL VALLEY REGIONAL WATER
QUALITY CONTROL BOARD,

Respondent.

CASE NO.:

**PETITION FOR REVIEW OF WASTE
DISCHARGE REQUIREMENTS AND
REQUEST TO PRESENT
SUPPLEMENTAL EVIDENCE UNDER
22 CCR SECTION 2050.6**

[Cal. Water Code § 13320; 23 CCR § 2050 et
seq.].

HEARING REQUESTED

PETITIONER Oroville Landfill Properties, Oroville Landfill Properties LLC, Jack M Steebles LLC, Carol Ann Seidenglanz LLC and Stephen Conn Seidenglanz LLC (hereinafter referred to as "Petitioner") submits this Petition for Review pursuant to California Water Code Section 13320 and Title 23 Section 2050 of the California Code of Regulations (CCR).

PETITION FOR REVIEW

1. **Name, Address, Telephone Number and E-Mail Address (If Available) of the
Petitioner**

23 CCR Section 2050(a)(1) requires that a Petition for Review contain the following information: "the name, address, telephone number and e-mail address (if available) of the

Petitioner.” That information is set forth below, but Petition respectfully requests that contact and communications from the State Water Resources Control Board (“SWRCB”) be through Petitioner’s counsel at the address set forth below.

Oroville Landfill Properties, et al.
Attn.: Mr. Steven Seidenglanz
4801 Feather River Blvd., #3
Oroville, CA 95965
(530) 533-1221

LANAHAN & REILLEY LLP
Attn.: Scott L. Steever or Keith T. Uland
600 Bicentennial Way, Suite 300
Santa Rosa, CA 95403
(707) 524-4200 (Phone)
(707) 523-4610 (Fax)
ssteever@lanahan.com
kuland@lanahan.com

2. The Specific Action or Inaction To Be Reviewed By The SWRCB

23 CCR Section 2050(a)(2) requires Petition for Review to set forth the specific action or inaction of the regional board which is to be reviewed by the SWRCB.

As thoroughly explained in Section 7 of this Petition, Petitioner contests certain provisions of Central Valley Regional Water Quality Control Board (“CVRWQCB”) Order Number R5-2007-0042 establishing Waste Discharge Requirements for clean-closure of the Oroville Landfill Properties Class III Wood Waste Landfill, in Butte County, California (hereinafter abbreviated and referred to as “the WDRs.” A true and correct copy of the WDRs is attached hereto as Exhibit A. Specifically, Petitioner challenges the amount of financial assurances enforced by the CVRWQCB through the WDRs, in item numbers 31 and 32 therein to clean-close the Oroville Landfill. Those WDRs require Petitioner to maintain financial assurances in the amount of \$1,602,376 to close the Oroville Landfill and \$1,427,218 as financial assurances for thirty years of post-closure maintenance. *See* Ex. A, Nos. 31-32, pp. 5-6.

3. The Date On Which The Regional Board Acted

23 CCR Section 2050(a)(3) requires a Petition for Review to state the date on which a regional water board acted or refused to take action when requested to do so.

The action took place on June 11, 2007 upon the CVRWQCB's issuance of the WDRs containing the aforementioned financial assurance obligations. A true and correct copy of a June 11, 2007 letter from the CVRWQCB entitled "Notice of Adoption of Waste Discharge Requirements Order No. R5-2007-0042, Oroville Landfill Properties Class III Wood Waste Landfill, Butte County" is attached hereto as Exhibit B. The WDRs, specifically direct:

"Any person affected by this action of the Regional Board may petition the [SWRCB] to review the action in accordance with Sections 2050 through 2068, Title 23, California Code of Regulations. The petition must be received by the [SWRCB], Office of Chief Counsel...within 30 days of the date of issuance of this Order." See Ex. A, Item No. 46, p. 8.

4. **A Full and Complete Statement of the Reasons The Action Was Inappropriate**

23 CCR Section 2050(a)(4) requires a Petition for Review to contain full and complete statement of the reasons the regional water board action was inappropriate. To the extent that the narratives contained in this Section reference the legal argument contained in Section 7, Petitioner incorporates that Section herein by reference.

The CVRWQCB's requirement, enforced by the WDRs, obligating Petitioner to present \$1,602,376 in financial assurances to close the Oroville Landfill, is the product of a CVRWQCB directive issued under threat of administrative fines, to Petitioner. See Ex. A, No. 31, p. 5.¹ Those financial assurances are not the "current cost estimate" required to be presented pursuant to 27 CCR Section 22206(a) to demonstrate financial responsibility for closing a landfill. Petitioner submitted a current cost estimate for clean-closure of the Oroville Landfill to the CVRWQCB on May 1, 2006 and estimated that task, inclusive of five years of groundwater monitoring, to cost approximately \$236,000. A true and correct copy of relevant excerpts of the April 28, 2006 *Response to Information Request, March 15, 2006, Oroville Landfill Properties, Oroville Class III Landfill, Butte County* is attached hereto as Exhibit C (see e.g. item 6, p. 3 and section 6 attached thereto).²

¹ Section 4 discusses certain acts and statements by CVRWQCB staff that displayed misconduct and unprofessionalism toward the general public. As stated at the conclusion of this Section and in the section of this brief entitled "Request To Present Supplemental Evidence," Petitioner is willing to meet with SWRCB representatives to discuss those incidents. Petitioner will submit supporting declarations if preferred by the SWRCB in lieu of a meeting.

² Certain information contained in this document is confidential under a prior assertion of the trade secret privilege and has not been submitted to the SWRCB. See footnote 3, *infra*.

1 The CVRWQCB, however, refused to accept Petitioner's clean-closure cost estimate stating that
2 Title 27 did not provide a method for establishing appropriate financial assurances for "clean
3 closure activities." A true and correct copy of a CVRWQCB letter to Petitioner, dated May 26,
4 2006 and entitled "Request For Information Pursuant To Section 13267 of The California Water
5 Code, Oroville Landfill Properties, et al., Oroville Landfill Properties, Class III Wood Waste
6 Landfill, Butte County" is attached hereto as Exhibit D. The CVRWQCB, instead, imposed a prior
7 cost estimate upon Petitioner that they submitted on February 25, 2004. *See* Ex. D. That cost
8 estimate was submitted by Petitioner to update a previous cost estimate submitted by Louisiana
9 Pacific, the former owner of the Oroville Landfill when the latter entity proposed to close that site
10 with thirty years of post-closure maintenance to follow. *Id.* The February 25, 2004 document
11 contained a closure cost estimate in the amount of \$1,255,097.97. *Id.* The associated cost estimate
12 for post-closure maintenance was \$1,372,530.00. *Id.* The CVRWQCB's reliance upon the
13 February 25, 2004 cost estimate is suspicious since, as stated, that updated cost estimate was
14 associated with the intent of the former property owner, Louisiana Pacific, to close the Oroville
15 Landfill and implement post-closure maintenance thereafter. Petitioner, however, requested to
16 clean-close the Oroville Landfill and, on May 1, 2006, submitted a current cost estimate as required
17 under 27 CCR Section 22206(a). Petitioner contacted CVRWQCB staff after receipt of the May
18 26, 2007 letter and objected to the requirement of submitting financial assurances as though they
19 were closing the Oroville Landfill. CVRWQCB staff ordered compliance with the May 26, 2007
20 directive and threatened Petitioner with administrative fines at the rate of \$1,000 per day if
21 compliance did not occur. CVRWQCB staff, during that phone conversation, also displayed
22 objectionable and unprofessional conduct by referring to Petitioner's environmental consultant as
23 "incompetent."

24 Furthermore, as explained in Section 7A, below, the CVRWQCB's requirement, enforced
25 by the WDRs, directing Petitioner to present \$1,427,218.00 in financial assurances to cover thirty
26

27 Relevant excerpts from this document have been attached to this petition. Petitioner will
28 submit the entire document, inclusive of protected portions upon request from the SWRCB
and upon arrangements being made to protect the aforementioned confidentiality of the
information contained therein.

1 years of post-closure maintenance is contrary to Title 27 of the California Code of Regulations. *See*
2 Ex. A, Nos. 31-32, pp. 5-6. A discharger proposing to clean close a landfill is only required to
3 present financial assurances for post-closure maintenance upon the determination by a regional
4 water board that the discharger's clean-closure efforts were unsuccessful to accomplish the
5 objective of that process described in 27 CCR Sections 20950(a)(2)(B) and 21090(f). *See* 27 CCR
6 §§ 21810(e)(2) 21090(f).

7 The gross injustice of the obligation upon Petitioner to maintain \$3,133,494 in financial
8 assurances pursuant to the WDRs is compounded the misconduct of CVRWQCB staff in
9 demanding the presentation of those assurances. As stated above, Petitioner contacted CVRWQCB
10 staff, shortly after the issuance of its May 26, 2006 letter to inquire why they were being required to
11 present financial assurances as though intending to close the Oroville Landfill with thirty years of
12 post-closure maintenance thereafter. Petitioner objected to the CVRWQCB's directive, the
13 CVRWQCB's rejection of their April 28, 2006 current cost estimate to clean-close that site and the
14 CVRWQCB's imposition of the aforementioned February 25, 2004 cost estimate upon them.
15 CVRWQCB staff advised Petitioner that the CVRWQCB would not rely upon the \$236,000 cost
16 estimate submitted by SCS Engineers on May 1, 2006. CVRWQCB staff further advised Petitioner
17 that they would be fined at a rate of \$1,000 per day if they did not comply with the CVRWQCB's
18 May 26, 2006 directive to submit a revised cost estimate for closure and post-closure maintenance
19 of the Oroville Landfill. *See e.g.* Ex. D. CVRWQCB staff, during that phone conversation, also
20 displayed objectionable and unprofessional conduct by referring to Petitioner's environmental
21 consultant as "incompetent." CVRWQCB staff also, prior to Petitioner's purchase of the Oroville
22 Landfill warned Petitioner against purchasing that property. A true and correct copy of a July 5,
23 2007 CVRWQCB letter generally referencing the aforementioned advisory by CVRWQCB staff is
24 attached hereto as Exhibit E (*see e.g.* p. 2). Neither the SWRCB nor the CVRWQCB should
25 tolerate such conduct by regional water board staff toward the general public. Moreover, such
26 statements by CVRWQCB staff, coupled with the questionable statements and acts described herein
27 demonstrate a bias toward the proposed clean-closure of the Oroville Landfill and suggest a intent
28 to thwart Petitioner's clean-closure process through abuses of regional water quality control board

1 authority.

2 Petitioner, in connection with their request to clean-close the Oroville Landfill, advised
3 CVRWQCB staff of the need to obtain WDRs for that process as quickly as possible yet in
4 compliance with all legal requirements. Petitioner even provided CVRWQCB staff with contracts
5 and related documentation demonstrating the economic hardships that it would experience if
6 issuance of the clean-closure WDRs for the Oroville Landfill and implementation of that process
7 was delayed.³ The CVRWQCB, nevertheless, knowingly delayed the issuance of the WDRs by
8 such means as unreasonably imposing incorrect and excessive financial assurance obligations upon
9 the Petitioner, contrary to applicable provisions in Title 27 of the California Code of Regulations.

10 CVRWQCB staff also unreasonably delayed the finalization of the WDRs when originally
11 published in draft form. That delay only gave Petitioner several days to review that draft document
12 prior to the initiation of the public comment period. The untimely preparation of the WDRs in draft
13 form and publication to Petitioner by CVRWQCB staff precluded Petitioner from further
14 challenging the financial assurances to be enforced by that document. *See* Ex. A, Nos. 31-32, pp.
15 506. As stated above, the CVRWQCB knew of Petitioner's need for the clean-closure WDRs to be
16 issued as soon as possible so as to meet its contractual obligations. CVRWQCB staff nevertheless
17 insisted on maintaining the unreasonable and incorrect interpretation of Title 27 regulations
18 discussed in Section 7A, *infra*. CVRWQCB staff, as stated above, delayed his preparation of the
19 draft WDRs and associated draft Monitoring and Reporting Program and admitted that he "screwed
20 up" by not preparing those draft documents more expeditiously. CVRWQCB staff also offered to
21 further discuss the financial assurance obligations to be contained in the WDRs, but advised that
22 such ongoing discussions would require the approval of the WDRs to be placed CVRWQCB's
23 calendar of contested actions to be heard at the CVRWQCB's June Board Meeting. Petitioner
24 could not agree to that request since the financial hardships and difficulties complying with

25
26 ³ Those documents are confidential under a prior assertion of the trade secret privilege. The
27 CVRWQCB is keeping those documents separate from the public file for the Oroville Landfill site
28 to prevent waiver of that privilege. The CVRWQCB can provide those documents to the SWRCB,
if necessary. Petitioner requests that the SWRCB and the CVRWQCB adhere to the existing
agreement to keep all documents designated as "confidential" out of its public file for this appeal to
preserve the confidentiality of Petitioner's documents.

1 contractual obligations known to CVRWQCB staff would be magnified if approval of the WDRs
2 was calendared for a later CVRWQCB public hearing.

3 Petitioner is willing to meet with SWRCB representatives regarding the incidents of
4 misconduct by CVRWQCB staff described above. The questionable course of conduct by
5 CVRWQCB staff, as discussed herein, demonstrates bias toward Petitioner's intent to clean-close
6 the Oroville Landfill and raises significant concern to Petitioner that CVRWQCB staff may engage
7 in further burdensome and unreasonable acts of interference to thwart and/or jeopardize clean-
8 closure efforts.

9 **5. The Manner In Which The Petitioner Is Aggrieved**

10 23 CCR Section 2050(a)(5) requires a Petition for Review to state the manner in which the
11 petitioner is aggrieved.

12 The WDRs enforce the CVRWQCB's unreasonable and unsupportable demand that
13 Petitioner maintain \$3,133,494 in financial assurances to cover closure and post-closure
14 maintenance costs in connection with the clean-closure of the Oroville Landfill and to annually
15 update those financial assurances. *See* Ex. A, Nos. 31-32, pp. 5-6. Petitioner, therefore, is
16 aggrieved as follows:

17 1. By being compelled under threat by the CVRWQCB to present and maintain
18 financial assurances to clean-close the Oroville Landfill in the amount of \$1,602,376. *See* Ex. A,
19 Nos. 31-32, pp. 5-6. That amount was established and maintained under threat of administrative
20 fines by CVRWQCB staff. Those financial assurances grossly exceed the \$236,000 current cost
21 estimate submitted by Petitioner's environmental consultant, in accordance with 27 CCR Section
22 22206(a), on May 1, 2006. *See* Ex. C, p. 3, item 6. The obligation in the WDRs to demonstrate
23 financial responsibility in connection with the clean-closure process, therefore, violates 27 CCR
24 Section 22206(a) and, as discussed in Section 7, below, is inconsistent with related Title 27
25 regulations applicable to the clean-closure process.

26 2. By being compelled by the CVRWQCB to present financial assurances for thirty
27 years of post-closure maintenance in the amount of \$1,427,218.00, despite a determination not
28 being made by the CVRWQCB that clean-closure efforts were carried out at the Oroville Landfill,

1 but were unsuccessful to accomplish the objective of that process stated in 27 CCR Sections
2 20950(a)(2)(B) and 21090(f). *See* Ex. A, Nos. 31-33, pp. 5-6. Those provisions of the WDRs,
3 therefore violate 27 CCR Section 21090(f).

4 3. By being forced by the CVRWQCB to incur substantial legal and environmental
5 consultant fees to respond to the unreasonable and unprofessional conduct and directives of
6 CVRWQCB staff maintained by the financial assurance obligations set forth in Sections 31 through
7 33 of the WDRs.

8 4. By being threatened with administrative fines by CVRWQCB staff if Petitioner did
9 not accommodate the CVRWQCB's misapplication of regulations in Title 27 of the California
10 Code of Regulations in clear disregard of Petitioner's intent to clean-close the Oroville Landfill

11 **6. The Specific SWRCB Action Requested By Petitioner**

12 23 CCR Section 2050(a)(6) requires a Petition for Review to set forth "the specific action by
13 the state or regional board which petitioner requests."

14 Petitioner requests that the SWRCB issue an Order directing the CVRWQCB to perform the
15 following acts:

16 (a) Revise and reduce the financial assurances required by the WDRs for clean closing
17 the Oroville Landfill from \$1,602,376 to \$236,000 in accordance with the current cost estimate
18 submitted by Petitioner's environmental consultant on May 1, 2006. *See* Ex. C, p. 3, item 6.

19 (b) Order that the sum of \$1,427,218 in financial assurances committed to thirty years of
20 post-closure maintenance be immediately released to the Petitioner.

21 (c) Order that the WDRs be revised accordingly to be consistent with the SWRCB's
22 Order and that the balance of financial assurances presented to the CVRWQCB through Petitioner's
23 \$3,133,494 letter of credit on or about September 29, 2006 be immediately released to Petitioner.
24 *See* Ex. A, Nos. 31-32, pp. 5-6.

25 (d) Order that the CVRWQCB investigate and initiate disciplinary action against the
26 staff member overseeing the Oroville Landfill site based upon his unprofessional conduct described
27 herein.

28 (e) Order that the CVRWQCB Executive Officer immediately transfer regulatory

oversight for the Oroville Landfill clean-closure process to the CVRWQCB's Rancho Cordova Office to prevent CVRWQCB staff from further retaliation against Petitioner arising from the filing of this Petition for Review.

7. **A Statement of Points and Authorities Supporting The Legal Issues Raised In The Petition**

23 CCR Section 2050(a)(7) requires a Petition for Review to contain a statement of points and authorities supporting the legal issues raised in the petition.

A. **The Financial Assurance Requirements In The WDRs Impermissibly Enforce The CVRWQCB's Misinterpretation and Misapplication Of The Provisions of Title 27 Regulations Applicable To Financial Assurances And To Petitioner's Request To Clean-Close the Oroville Landfill**

The rules of statutory construction and interpretation govern the construction and interpretation of administrative regulations. *See Union of American Physicians and Dentists v. Kizer* (1990) 223 Cal.App.3d 490, 504-505 (citation omitted). The rules of statutory interpretation are summarized in *Sounhein v. City of San Dimas* (1996) 47 Cal.App.4th 1181, as follows:

"The objective of statutory interpretation is to ascertain the legislative intent. [Citation]. Statutory interpretation is guided by the so-called "plain-meaning" rule. "Words used in a statute...should be given the meaning they bear in ordinary use. [Citations.] If the language is clear and unambiguous there is no need for construction, nor is it necessary to resort to indicia of the intent of the Legislature (in the case of a statute)...but the 'plain meaning' rule does not prohibit a court from determining whether the literal meaning of a statute comports with its purpose or whether such a construction of one provision is consistent with other provisions of the statute. The meaning of a statute may not be determined from a single word or sentence; the words must be construed in context, and provisions relating to the same subject matter must be harmonized to the extent possible. [Citation.] Literal construction should not prevail if it is contrary to the legislative intent apparent in the statute. The intent prevails over the letter, and the letter will, if possible, be so read as to conform to the spirit of the act. [Citations.]. An interpretation that renders related provisions nugatory must be avoided [citation]; each sentence must be read not in isolation but in the light of the statutory scheme [citation]; and if a statute is amenable to two alternative interpretations, the one that leads to the more reasonable result will be followed [citation]." *Id.* at 1188

The regulatory provisions in Title 27 of the California Code of Regulations ("Title 27" or "CCR") applicable to the "clean closure" process and regulations applicable to financial assurances set forth in Title 27 must, therefore, be consistently interpreted in a manner that gives meaning and

1 purpose to regulations applicable to each subject area and without creating a conflict amongst those
2 provisions. Title 27 regulations applicable to financial assurances may not be interpreted and
3 applied in a manner that is inconsistent with or fails to give meaning or purpose to Title 27
4 regulations applicable to the landfill "clean-closure" process.

5 An examination of Title 27 establishes two methods by which a discharger may close a
6 landfill. First, the discharger may elect to "close" the landfill. *See* 27 CCR § 20950(a)(2)(A)(1)-
7 (2). Title 27 defines the word "closure," as it is used in that context, as:

8 "...the process during a waste management unit (Unit), or portion
9 thereof, that is no longer receiving waste, is undergoing all operations
10 necessary to prepare the Unit (or portion thereof, as appropriate) for
11 post-closure maintenance in accordance with an approved plan for
closure, or partial final closure as appropriate. *See* 27 CCR § 20164
(definition of "closure") (emphasis added)

12 27 CCR Section 20950(a)(2)(A), consistent with the above-cited definition of the word
13 "closure," establishes the performance standard for the landfill "closure" process. That section
14 identifies two phases, one establishing the performance standard for the "closure" of the landfill and
15 the other providing the standard for the identified objective of the "closure" process, which is post-
16 closure maintenance. *See* 27 CCR §§ 20164 (definition of "closure"), 20950(a)(2)(A)(1)-(2).

17 Title 27, alternatively, permits a discharger to employ a process, described as "clean-
18 closure" of a landfill. *See* 27 CCR § 20950(a)(2)(B). The "clean-closure" process, unlike the
19 "closure" process pursues a different objective. While the landfill "closure" process, as described
20 above, is intended to close the landfill in a manner that prepares the site for post-closure
21 maintenance, the goal or objective of the "clean-closure" process is:

22 "...to physically remove all waste and contaminated materials from
23 the Unit and from its underlying and surrounding environs, such that
24 the waste in the Unit no longer poses a threat to water quality.
25 Successful completion of clean-closure eliminates the need for any
26 post-closure maintenance period and removes the Unit from being
27 subject to the [State Water Resources Control Board] promulgated
28 requirements of this subdivision." *See* 27 CCR § 21090(f)

Title 27 defines the "clean-closure" process as being "successfully completed," as the term
is used in Section 20950(a)(2)(B) and 21090(f), when:

"(1) all waste materials, contaminated components of the containment
system, and affected geologic materials – including soils and rock

1 beneath and surrounding the Unit, and ground water polluted by a
2 release from the Unit – are either removed and discharged to an
3 appropriate Unit or treated to the extent that the [Regional Water
Quality Control Board] finds they no longer pose a threat to water
quality; and

4 (2) all remaining containment features are inspected for
5 contamination and, if contaminated, discharged in accordance with
[subsection] (f)(1).”

6 In summary, therefore, Title 27 establishes two processes for closing a landfill: the
7 “closure” process and the “clean-closure” process, each pursuing a different objective. As stated
8 above, the “closure” process is intended to close the landfill in a manner that prepares it for thirty
9 years of post-closure maintenance. See 27 CCR §§ 20950(a)(2)(A), 21180(a). The “clean-closure”
10 process, on the other hand, proposes an alternative method for closing a landfill that envisions the
11 elimination of the post-closure maintenance period. See 27 CCR §§ 20950(a)(2)(B) and 21090(f).
12 Title 27 regulations, applicable to the landfill “clean-closure” process contain a safeguard in the
13 event clean closure efforts are carried out, but the discharger is unsuccessful in accomplishing the
14 objective of that performance standard, discussed above. 27 CCR Section 21950(f) contains that
15 safeguard and states in relevant part:

16 “Upon the [Regional Water Quality Control Board’s] finding that the
17 discharger has successfully completed clean closure under this
18 paragraph, the landfill shall no longer be subject to the [State Water
Resources Control Board] promulgated requirements of this title.
19 Nevertheless, if the [Regional Water Quality Control Board] finds
20 that the discharger’s attempt to clean close the landfill does not
21 meet the requirements of this subsection, the discharger shall close
the landfill and carry out post-closure maintenance in the same
manner as though the discharger had not attempted clean closure.”
(emphasis added)

22 Title 27 imposes financial assurance obligations upon dischargers proposing to implement
23 either the landfill “closure” process, with its required thirty years of post-closure maintenance, or
24 the landfill “clean-closure” process. Those regulations are set forth in Title 27, Chapter 6,
25 Subchapters 1 and 2 and Articles 1 and 2 of Subchapter 2. See 27 CCR §§ 22200-22212. Those
26 regulations, however, are silent on the subject of financial assurances required for the “clean-
27 closure” of landfills and only reference the landfill “closure” process, which, as stated above and by
28 association, includes a thirty year post-closure maintenance period. See e.g. 27 CCR §§

20950(a)(2)(A)(1)-(2), 22206(a), 22211(a). A careful interpretation and application of Title 27 regulations applicable the required presentation of financial assurances by a discharger proposing to "clean-close" a landfill nevertheless demonstrates that the requirements of Sections 22206(a) and 22211(a) cannot merely be transposed into the context of a request to "clean-close" a landfill. As demonstrated below, such an interpretation and/or application of those regulatory provisions would undermine the purpose as well as contradict the language in other Title 27 regulations governing the landfill "clean-closure" process.

For instance, a discharger proposing to implement the landfill "closure" process must:

"...establish an irrevocable fund...for closure and post-closure maintenance to ensure closure and post-closure maintenance of each classified Unit in accordance with an approved plan." 27 CCR § 20950(f) (emphasis added)

The landfill "closure" process, as previously stated and as demonstrated in Section 20950(f) through the repeated use of the word "and," contains two phases: (a) the closure process and (b) the post-closure maintenance process. *See e.g.* 27 CCR § 20950(a)(2)(A)(1)-(2). The financial assurances required by 27 CCR Sections 22206(a) and 22211(a), therefore, must be met prior to commencement of the landfill "closure" process to demonstrate financial responsibility for both phases of that process.

Application of the financial assurance requirements in 27 CCR Sections 22206(a) and 22211(a) for both components of the landfill "closure" process (e.g. the "closure" process and the post-closure maintenance period) to the landfill "clean-closure" process, however, as stated above, cannot be consistently applied with Title 27 regulations governing the latter process. For instance, 27 CCR Section 21950(f) clearly states that Title 27 requirements applicable to the landfill "closure" process (inclusive of the corresponding financial assurance obligations) are to only have an association with the "clean-closure" process when a regional water quality control board finds that a discharger's attempt to clean-close a landfill was unsuccessful to accomplish the objective of that process stated in 27 CCR Sections 20950(a)(2)(B) and 21950(f) and cited above. *See e.g.* 27 CCR §§ 21950(a)(2)(B), 21950(f). The referenced regional water quality control board determination requires the discharger to employ the landfill "closure" process described in 27 CCR

1 Section 20950(a)(2)(A), inclusive of thirty years of post-closure maintenance and associated
2 financial assurances, because the discharger is considered to have "not attempted clean-closure."
3 See 27 CCR §§ 21810(e)(2), 21950(f). A discharger proposing to "clean-close" a landfill,
4 therefore, cannot be required to present financial assurances to demonstrate responsibility for a
5 thirty year post-closure maintenance period that, pursuant to Title 27 landfill "clean-closure"
6 regulations, is not associated with that process until the aforementioned regional water board
7 determination occurs. See 27 CCR §§ 21950(f).

8 Likewise, 27 CCR Section 21810 demonstrates that Title 27 does not intend that a
9 discharger proposing to "clean-close" a landfill be required to present financial assurances as
10 though the landfill "closure" process had been proposed. Section 21810 sets forth the contents for a
11 final closure plan for dischargers "clean-closing" a landfill. Subsection (e)(2) therein is applicable
12 to cases where the landfill "clean-closure" process occurred, but was unsuccessful. That subsection
13 requires the discharger to present "closure and post-closure maintenance plans and a financial
14 assurances mechanism for closure and post-closure maintenance...[s]uch a Unit shall not be
15 regarded as having been clean-closed." (emphasis added). If 27 CCR Sections 22206(a) and
16 22211(a) had been intended to be interchangeable in both the landfill "closure" and "clean-closure"
17 contexts, the obligation upon the discharger stated in 27 CCR Section 21810(e)(2) to present
18 financial assurances consistent with the landfill "closure" process would obviously not need to be
19 stated. That obligation arising from the referenced language in 27 CCR Section 21810(e)(2) would
20 be unnecessary because those financial assurances already would have been required from the
21 discharger prior to commencement of the landfill "clean-closure" process. An interchangeable
22 application of "closure" financial assurance requirements to requests for landfill "closure" and
23 landfill "clean-closure," therefore, fails to give meaning and effect to the language in 27 CCR
24 Section 21810(e)(2). Consequently, such an interpretation is contrary to the rules of statutory
25 interpretation as applied to administrative regulations. See *Union of American Physicians and*
26 *Dentists, supra* at 504-505; *Sounhein, supra* at 1188.

27 It is clear, therefore, that the financial assurance obligations set forth in 27 CCR Sections
28 22206(a) and 22211(a) cannot be applied in a standard fashion regardless of whether a discharger

1 proposes to employ the landfill "closure" or "clean-closure" process. If the discharger proposes the
2 landfill "closure" process, 27 CCR Sections 22206(a) and 22211(a) establish the standards by
3 which financial assurances are to be measured for the respective "closure" and post-closure
4 maintenance processes. *See e.g.* 27 CCR § 20950(a)(2)(A)(1)-(2), 21769(b)(1), 21840(a)(2),
5 21900(a), 21950(f). If, on the other hand, a discharger proposes to "clean-close" a landfill, as
6 discussed above, a consistent reading and application of 27 CCR Section 22206(a) with Title 27
7 regulations, referenced above and applicable to that process prohibits post-closure maintenance
8 financial assurances from being required from a discharger until the "clean-closure" process is
9 carried out and the regional water quality control board determines that the objectives thereof, set
10 forth in 27 CCR Sections 20950(a)(2)(B) and 21950(f), were not met. *See* 27 CCR §§ 21810(e)(2),
11 21950(f). Title 27 advises that the financial assurances associated with the "closure" process must
12 be presented at that time because the regional water quality control board, upon making such a
13 determination, considers "clean-closure" of the landfill to have not occurred. *Id.* A regional water
14 quality control board, to consistently interpret and apply Title 27 regulations applicable to financial
15 assurances in the context of the landfill "clean-closure" process may, in accordance with 27 CCR
16 Section 22206(a), request financial assurances from the discharger "in at least the amount of the
17 current closure cost estimate."

18 The CVRWQCB in past discussions regarding the application of Title 27's financial
19 assurance obligation to the "clean-closure" process has contended that 27 CCR Section 21090(f),
20 cited above, does not restrict a regional water quality control board from requesting post-closure
21 maintenance financial assurances before the determination referenced in that provision. *See* Ex. E.
22 As stated above, however, such an interpretation is inconsistent with Title 27 regulations applicable
23 to the clean-closure process, specifically, 27 CCR Section 21810(e)(2). If a regional water quality
24 control board was permitted to request post-closure maintenance financial assurances before a
25 discharger commenced the "clean-closure" process and before the regional water board
26 determination referenced in 27 CCR Section 21090(f), as the CVRWQCB has contended, as
27 previously explained, such an obligation would be inconsistent with 27 CCR Section 21810(e)(2).
28 The latter provision requires financial assurances for "closure" and post-closure maintenance to be

1 presented with a "clean-closure" final closure plan if the discharger was unsuccessful in carrying
2 out the "clean-closure" process. The CVRWQCB's interpretation is incorrect because, to reiterate,
3 it fails to give effect or meaning and/or purpose to the obligation in 27 CCR Section 21810(e)(2)
4 due to the obligation supposedly already being satisfied even before the clean-closure process was
5 put into effect. Consequently, the CVRWQCB's interpretation is contrary to the rules of statutory
6 interpretation as applied to the CCRs and discussed at that beginning of this Section. *See Union of*
7 *American Physicians and Dentists, supra* at 504-505; *Sounhein, supra* at 1188.

8 The CVRWQCB also, in past discussions, referenced 27 CCR Section 22212(a) as authority
9 to request financial assurances associated with a post-closure maintenance period even though
10 Petitioner proposed to "clean-close" the Oroville Landfill. *See* Ex. E. That assertion again is
11 contrary to the rules of statutory interpretation as applied to administrative regulations, set forth
12 above. That interpretation, however, ignores other applicable post-closure maintenance regulations,
13 including 27 CCR Sections 21825 and 21830 requiring the presentation of a preliminary and final
14 post-closure maintenance plan. *See e.g.* 22212(a) ("...the [regional water quality control board]
15 shall require the discharger to establish a irrevocable fund...to ensure post-closure maintenance...in
16 accordance with an approved [post-closure maintenance] plan...."). According to the CVRWQCB,
17 a discharger proposing to "clean-close" a landfill may be required to present financial assurances to
18 fund a post-closure maintenance period believed to be "reasonably foreseeable." *See* Ex. E. The
19 CVRWQCB nevertheless inconsistently acknowledges by its actions that compliance with other
20 applicable "post-closure maintenance" obligations, including the presentation of a required post-
21 closure maintenance plan that includes a "detailed cost estimate" for carrying out post-closure
22 maintenance prior to completion of the "clean-closure" process is not necessary. *See e.g.* 27 CCR §
23 21830(a), (b)(8). Indeed, the WDRs are silent on the subject of a post-closure maintenance plan
24 being submitted by Petitioner because the CVRWQCB never requested such a document. The
25 CVRWQCB's selective application of the Title 27 post-closure maintenance financial assurance
26 obligation, consequently, is inconsistent with other applicable regulations governing that phase of
27 the landfill "closure" process. That application of Title 27 regulations, consequently is contrary to
28 the rules of statutory interpretation as applied to the CCRs and discussed at that beginning of this

Section. See *Union of American Physicians and Dentists*, *supra* at 504-505; *Sounhein*, *supra* at 1188

The WDRs advise Petitioner that the Oroville Landfill may have to be closed in accordance with Title 27 regulations, with a post-closure maintenance period to follow if the clean-closure process is not successful following the completion of "clean closure excavation activities" and two years of subsequent groundwater monitoring. See Ex. A, Section C.16, p. 13. As explained below, the WDRs, however, misapply the Title 27 financial assurance requirements 27 CCR Section 22206(a) and 22211(a) as follows. First, the CVRWQCB misapplied 27 CCR Section 22206(a) through the WDRs to maintain an erroneous request for financial assurances for "clean-closing" the Oroville Landfill that was not based upon the "current cost estimate" for that activity. Next, the CVRWQCB misapplied 22211(a) through the WDRs to enforce a requirement that Petitioner present and maintain financial assurances for thirty years of post-closure maintenance of the Oroville Landfill even though Petitioner requested and the CVRWQCB issued the WDRs for "clean-closure" of the Oroville Landfill. As stated above, such requirements are contrary to and inconsistent with Title 27 regulations applicable the landfill "clean-closure" process.

1. **The WDRs Enforce The CVRWQCB's Demand For "Clean Closure" Financial Assurances That Are Not Based Upon Petitioner's "Current Cost Estimate" As Required By 27 CCR Section 22206(a)**

Petitioner incorporates herein by reference the legal argument presented in Section 7A, above.

The WDRs issued by the CVRWQCB state that "[c]osts for closure were estimated to be \$1,603,376.00. See Ex. A, No. 31, p. 5. Those financial assurances were submitted to the CVRWQCB on or about September 29, 2006 in a letter of credit of the same date totaling \$3,133,494.00. Those assurances also were submitted under threat from the CVRWQCB of imposing administrative fines if Petitioner continued to challenge the necessity of complying with that directive. See Ex. A, No. 32, p. 6; Ex. D.

On or about May 1, 2006, Petitioner, through its environmental consultants, SCS Engineers, submitted a document entitled *Response To Request for Additional Information, California Regional Water Quality Control Board, March 15, 2006* to the CVRWQCB. See Ex. C, p. 3, item

6. That report estimated the cost for clean closing the Oroville Landfill followed by five years of groundwater monitoring to be \$236,000. *See* Ex. C, p. 3, item 6; Ex. D.

The CVRWQCB advised Petitioner in a letter, dated May 26, 2006, that:

“[Title 27 of the California Code of Regulations contains] no means for demonstrating financial assurances for “clean closure activities.” However, Title 27, CCR, Chapter 6, Subchapter 2 Articles 1 and 2, beginning with Section 22205, required Dischargers of Class III waste management units to demonstrate the availability of financial resources to conduct closure and post-closure maintenance activities.” *See* Ex. D.

The CVRWQCB, therefore, rather than relying upon Petitioner’s April 28, 2006 current cost estimate to clean-close the Oroville Landfill, imposed an outdated, February 25, 2004 cost estimate upon Petitioner, and by its own actions, declared the former cost estimate to be the “current cost estimate” required under 27 CCR Section 22206(a). *See e.g.* Exhibits A, C, D. As stated in Section 4, however, the February 25, 2004 cost estimate was submitted to update the cost estimate submitted by Louisiana Pacific, the former property owner, in connection with the former entity’s intent to close the Oroville Landfill and implement thirty years of post-closure maintenance thereafter. *See* Ex. C. Petitioner was forced to comply with the CVRWQCB’s May 28, 2006 directive under the threat from CVRWQCB staff of imposing administrative fines at a rate of \$1,000 per day when they objected to the imposition of the old cost estimate upon them instead of relying upon the current cost estimate submitted by their environmental consultant to clean-close the site. *See e.g.* Exhibits C and D. Petitioner also was offended when CVRWQCB staff at the same time made the unprofessional comment that Petitioner’s environmental consultant was “incompetent.” Petitioner reluctantly and under threat of administrative fines submitted a letter of credit to the CVRWQCB on September 29, 2006 in the amount of \$3,133,494, which includes the sum of \$1,602,376 in financial assurances to close the Oroville Landfill. *See* Ex. A, Nos. 31-32, pp. 5-6.

A discharger proposing to clean close a landfill must provide financial assurances “in at least the amount of the current closure cost estimate.” *See* 27 CCR § 22206(a). Petitioner, on May 1, 2006, submitted a current cost estimate to the CVRWQCB totaling approximately \$236,000 to clean close the Oroville Landfill. That cost estimate included five years of groundwater

1 monitoring. *See* Ex. C. The CVRWQCB refused to accept that current cost estimate and, through
2 the WDRs, enforced an unreasonable demand for financial assurances in the amount of \$1,602,376
3 that it imposed upon the Petitioner that derived from an old cost estimate submitted in connection
4 with the prior intent of the former property owner to close the Oroville Landfill with thirty years of
5 post-closure maintenance thereafter. *See* Ex. A, Nos. 31-32, pp. 5-6.

6 The CVRWQCB has no reasonable basis for relying upon the February 25, 2004 cost
7 estimate for closure and post-closure maintenance of the Oroville Landfill from which the
8 \$1,602,376 financial assurance obligation in the WDRs derived. *See* Ex. A, No. 31, p. 5; Ex. D.
9 Petitioner's responsibility for demonstrating financial responsibility for "closure activities" is
10 limited to "...at least the amount of the current cost estimate." *See* 27 CCR § 22206(a) (emphasis
11 added). It cannot be disputed that Petitioner's cost estimate submitted to the CVRWQCB on May
12 1, 2006 was the current cost estimate for clean-closing the Oroville Landfill. The financial
13 assurance of \$1,602,376 to clean close the Oroville Landfill established by the WDRs grossly
14 exceeds that current cost estimate and, as stated in Section 4, above, was imposed upon Petitioner
15 under threat by CVRWQCB staff of administrative fines if acceptance did not occur.

16 Petitioner respectfully requests that the SWRCB order the CVRWQCB to amend the WDRs
17 to require financial assurances for clean-closing the Oroville Landfill in an amount consistent with
18 Petitioner's April 28, 2006 current cost estimate. *See* Ex. C. Petitioner also respectfully requests
19 that the SWRCB order the CVRWQCB to release to Petitioner the balance of financial assurances
20 currently presented to that regional water board for clean closing the Oroville Landfill.

21 **2. The WDRs Enforce the CVRWQCB's Erroneous Demand For**
22 **Petitioner To Present Post-Closure Maintenance Financial Assurances**
Even Though Petitioner Will Clean-Close The Oroville Landfill.

23 Petitioner incorporates herein by reference the legal argument presented in Section 7A,
24 above.

25 The WDRs issued by the CVRWQCB required Petitioner to demonstrate and maintain
26 financial responsibility in amounts approved by the CVRWQCB Executive Officer to cover
27 closure, post-closure maintenance and corrective action costs. *See* Ex. A, No. 32, p. 8; Section
28 E.11, p. 10. Petitioner reluctantly submitted a letter of credit to the CVRWQCB on September 29,

2006 in the amount of \$3,133,494.00, which included financial assurances in the amount of \$1,427,218 for thirty years of post-closure maintenance. *See* Ex. A, Nos. 31-32, pp. 5-6.

As discussed in Section 7A, above, a consistent interpretation and application of 27 CCR Section 22206(a) with Title 27 regulations applicable to the "clean-closure" process cannot support a regional water quality control board action that added provisions in the WDRs requiring Petitioner to present and maintain financial assurances for post-closure maintenance prior to a determination that the landfill "clean-closure" process was carried out, but unable to accomplish the objective of that process cited in Section 7A, above, and contained in 27 CCR Sections 20950(a)(2)(B) and 21950(f). *See* 27 CCR §§ 21810(e)(2), 21950(f). The recitals in the WDRs reveal that the CVRWQCB mischaracterized the two years of groundwater monitoring following completion of "clean-closure excavation activities" as being a post-closure maintenance period. That mischaracterization gave rise to the CVRWQCB's requirement in the WDRs that Petitioner provide financial assurances sufficient to fund thirty years of post-closure maintenance, as required by 27 CCR Sections 21180(a) and 21840(a)(2) even though Petitioner proposed to clean-close the Oroville Landfill.⁴

The CVRWQCB's mischaracterization of the two year groundwater monitoring period following "clean closure excavation activities" at the Oroville Landfill as being a "post closure maintenance period" as the latter term is defined by 27 CCR Section 20950(a)(2)(A)(2) is evident from CVRWQCB's statements in the WDRs. *See* Ex. A, Section C.13, p. 12 ("Upon completion of the two-year post-clean closure maintenance period..."). This mischaracterization is further evidenced by the CVRWQCB's request for financial assurances to cover a thirty year post-closure maintenance period, which, as explained in Section 7A, above, is required, if "closure" of the landfill is the selected performance method proposed by the discharger. *See* Ex. A, No. 31, p. 5; Section C.13, p. 12 *also see* 27 CCR § 20950(a)(2)(A)(1)-(2), 20950(f), 21769(b)(1), 21840(a)(2), 21900(a). Finally, the WDRs contain an advisory that all financial assurances will be released upon

⁴ It also is unclear why the CVRWQCB requested financial assurances to fund a thirty-year post closure maintenance period if the erroneous position was concurrently taken that the two-year groundwater monitoring period following "clean closure excavation activities" constituted a post closure maintenance period. *See* Ex. A, No. 31, p. 5; Section C.13, p. 12.

1 the completion of "post-clean-closure maintenance period." See Ex. A, Section E.13, p. 13.
2 Consequently, the CVRWQCB's misapplication of Title 27's regulations relating to financial
3 assurances in connection with Petitioner's proposed clean-closure of the Oroville Landfill resulted
4 in financial assurance obligations enforced by the WDRs to fund post-closure maintenance in the
5 amount of \$1,427,218.00. See Ex. A, Nos. 31-32, pp. 5-6.

6 In conclusion, the CVRWQCB cannot issue WDRs approving the clean closure of the
7 Oroville Landfill and concurrently demand financial assurances to cover a thirty year post closure
8 maintenance period prior to the commencement of any clean closure work at this site. Title 27
9 regulations envision a finding that a post closure maintenance period and corresponding financial
10 assurances may be necessary, in connection with the clean closure of a landfill only at the time
11 clean closure efforts were carried out, but determined to be unsuccessful. See e.g. 27 CCR §§
12 20950(a)(2)(B), 21090(f), 21810(e)(2). Petitioner, therefore, requests that the sum of
13 \$1,427,218.00, representative of financial assurances for thirty (30) years of post-closure
14 maintenance, be immediately released.

15 **8. Statement of Notification To the Central Valley Regional Water Quality Control**
16 **Board**

17 23 CCR Section 2050(a)(8) requires a Petition for Review to contain a statement that the
18 petition has been sent to the appropriate regional board and to the discharger, if not the petitioner.

19 As demonstrated by the attached proof of service, a copy of this Petition for Review was
20 mailed to the CVRWQCB's Redding Branch Office on July 10, 2007.

21 **9. A Statement That The Substantive Issues Raised In The Petition Were Raised Before**
22 **The Regional Board**

23 23 CCR Section 2050(a)(9) requires a Petition for Review to contain "a statement that the
24 substantive issues or objections raised in the petition were raised before the regional board or an
25 explanation of why the petitioner was not require or was unable to raise these substantive issues or
26 objections before the regional board."

27 The dispute between the CVRWQCB and Petitioner concerning the amount of financial
28 assurances required under Title 27 to clean close the Oroville Landfill has been ongoing prior to the

1 issuance of the WDRs. As described in Section 4, above, negotiations with CVRWQCB staff
2 continued when the WDRs were published in draft form. Those efforts were documented in the
3 WDRs, which state:

4 "The Discharger and the Regional Water Board are currently
5 engaged in negotiations regarding the amount of financial assurances
6 described herein. These negotiations may result in the financial
assurances being adjusted accordingly." See Ex. A, No. 31, pp. 5-6.

7 These negotiations also continued after the CVRWQCB adopted and subsequently issued
8 the WDRs. The CVRWQCB is willing to establish certain "milestones" for the release of financial
9 assurances required by the WDRs. See Ex. D. Petitioner reserves the right to continue those
10 negotiations despite filing this Petition for Review challenging the underlying legal basis for the
11 financial assurances required by the WDRs. See e.g. Ex. A, Nos. 31-32, pp. 5-6.

12 REQUEST TO PRESENT SUPPLEMENTAL EVIDENCE

13 (23 CCR § 2050.6)

14 Petitioner, in Sections 4 and 7 of their Petition for Review, presents testimonial evidence
15 regarding unprofessional statements and threats made by CVRWQCB staff. Petitioner, in Section
16 4, offers to meet with SWRCB representatives to discuss those events. Petitioner will provide
17 supporting declarations to the SWRCB if requested in lieu of a meeting and requests authorization
18 to do so pursuant to the provisions of 23 CCR Section 2050.6.

19 CONCLUSION

20 Petitioner, for the reasons set forth herein, respectfully requests that the SWRCB grant the
21 relief requested in Section 6 of the Petition for Review.

22 Dated: July 10, 2007

23 LANAHAN & REILLEY LLP

24
25 By 

26 KEITH T. ULAND
27 Attorneys for Petitioner
28 Oroville Landfill Properties, Oroville
Landfill Properties LLC, Jack M Steebles LLC,
Carol Ann Seidenglanz LLC and Stephen Conn
Seidenglanz LLC

EXHIBIT A

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2007-0042

WASTE DISCHARGE REQUIREMENTS
FOR
OROVILLE LANDFILL PROPERTIES, OROVILLE LANDFILL PROPERTIES LLC,
JACK M. STEEBLES LLC,
CAROL ANN SEIDENGLANZ LLC, AND STEVEN CONN SEIDENGLANZ LLC
FOR
CLEAN-CLOSURE OF
OROVILLE LANDFILL PROPERTIES CLASS III WOOD WASTE LANDFILL
BUTTE COUNTY

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Regional Board) finds that:

1. Oroville Landfill Properties, Oroville Landfill Properties LLC, Jack M. Steebles LLC, Carol Ann Seidenglanz LLC, and Steven Conn Seidenglanz LLC (hereafter Discharger) own a Class III landfill located about three miles south of Oroville, in the southwest $\frac{1}{4}$ of Section 29 and the southeast $\frac{1}{4}$ of Section 30, T19N, R4E, MDB&M, as shown in Attachment A, which is incorporated herein and made part of this Order.
2. The 105 acre facility consists of three existing unlined waste management units (Unit) covering approximately 27.5 acres, as shown in Attachment B, which is incorporated herein and made part of this Order. The facility is comprised of Assessor Parcel Numbers (APNs) 078-100-015, 078-100-046, and 078-090-014. APNs 078-100-047 and 035-470-012 were also included as being part of the facility in previous waste discharge requirements. However, the Discharger has shown that no waste disposal activities occurred on the latter two parcels, so they have been removed from the requirements in this Order.
3. APNs 078-100-015 and 078-090-014 are owned by Oroville Landfill Properties, Jack M. Steebles LLC, Carol Ann Seidenglanz LLC, and Steven Conn Seidenglanz LLC. APN 078-100-046 is owned by Oroville Landfill Properties LLC, Jack M. Steebles LLC, Carol Ann Seidenglanz LLC, and Steven Conn Seidenglanz LLC.
4. On 28 September 1990, the Regional Board issued Order No. 90-266, in which the facility was classified as a Class III waste disposal site for the discharge of wood wastes and ash in accordance with the regulations in effect when the Order was issued. Waste Discharge Requirements Order No. R5-2005-0027 was issued on 27 January 2005 and required the Discharger to close (cap wastes in place) or clean-close (excavate and remove all residual wastes) the three existing Units. This Order supercedes all previous Orders and allows for clean-closure of the three existing Units.

5. Section 21090(f) of Title 27 California Code of Regulations (hereafter Title 27 or 27 CCR) states in part, "The purpose of clean-closure is to render the landfill (including all surrounding environs contaminated by waste released from the landfill) no longer capable of posing a threat to water quality."

SITE DESCRIPTION

6. The landfill is located along the eastern margin of the Sacramento Valley approximately one mile east of the Feather River. The area is characterized by rolling foothills grading eastward into the steeper flanks of the Sierra Nevada Mountains and westward toward the flat expanse of the valley floor.
7. The previous site owner, Louisiana-Pacific Corporation, planted eucalyptus trees and spread sawdust from their mill operations along the south and east sides of the landfill property on parcel numbers APN 078-100-015, APN 078-100-046, and APN 078-090-014. After initial placement of the sawdust mulch, leachate consisting primarily of tannins and lignins was generated from the decomposing wood wastes and had the potential to enter storm water drainage courses. The Discharger constructed Pond 7 in the southeast corner of APN 078-090-014 to capture leachate laden storm water. The Discharger has requested to remove APN 078-090-014 from these waste discharge requirements. However, before APN 078-090-014 is removed from the waste discharge requirements, the Discharger will need to demonstrate that residual wastes, which may be present on the parcel, pose no threat to water quality.
8. Four major geologic units have been identified beneath the site. The units that have been identified from the top of the meta-volcanic bedrock to the ground surface are the Lone Formation, the Merhten Formation, the Nomlaki Tuff, and the Laguna Formation. With the exception of the volcanic Nomlaki Tuff, the units are composed of Cenozoic flood deposits from the current and ancestral Feather River System. The Laguna and Merhten Formations contain water bearing sands and gravels that are commonly separated by interbedded clayey aquitards.
9. The closest Holocene fault is the Cleveland Hill Fault located approximately seven miles southeast of the facility. The maximum credible earthquake is estimated to be a $M_L = 6$. The peak horizontal acceleration at the site, considering the maximum credible earthquake, is approximately 0.3g.
10. Land uses within 1,000 feet of the facility are zoned industrial.
11. The climate in the Oroville area is dry with hot summers and mild winters. The facility receives a mean annual rainfall of 29 inches with nearly 90 percent occurring between November and April. The average annual evaporation is approximately 68 inches.

12. The 100-year, 24-hour precipitation event is estimated to be 5.51 inches, based on Department of Water Resources' Bulletin No. 195 entitled *Rainfall Analysis for Drainage Design Volume II Long-Duration Precipitation Frequency Data*, dated October 1976.
13. The waste management facility is not within a 100-year flood plain.

WASTE AND SITE CLASSIFICATION

14. The Discharger purchased the site in September 2002. The previous owner, Louisiana-Pacific Corporation, discharged wood wastes to Units 1 and 2, and ash from a wood-fired cogeneration facility to Unit 4. Unit 3 was sited, but never received waste. Unit 1 stopped receiving wastes in 1988 and Unit 2 stopped receiving wastes in 2001.
15. Chemical constituents found in the wood waste at the facility that have the potential to affect the quality of waters of the State include pentachlorophenol (PCP), formaldehyde, polynuclear aromatic hydrocarbons (PAHs), tannins, and lignins. Formaldehyde in the waste originated from the Louisiana-Pacific Corporation hardboard facility, which used a urea-formaldehyde glue. PAH compounds encountered in the waste may be from water flowing from the adjacent Koppers wood-treating facility or associated with ash that was previously disposed in the landfill. Tannins and lignins are normal decomposition products of wood waste. None of the above constituents have been detected in groundwater beneath the site in concentrations that affect beneficial uses.

SURFACE AND GROUND WATER CONDITIONS

16. The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition* (hereafter Basin Plan), designates beneficial uses, establishes water quality objectives, and contains implementation plans and policies for all waters of the Basin.
17. Surface drainage is to intermittent drainage courses north and west of the facility, which are tributary to the Feather River in the Lower Feather River Hydrologic Area (515.40) of the Sacramento Hydrologic Basin. The Feather River is located approximately one mile west of the site.
18. The designated beneficial uses of the Feather River, as specified in the Basin Plan, are municipal and agricultural supply, water contact and non-water contact recreation, warm and cold fresh water habitat, warm and cold freshwater fish migration, warm and cold freshwater fish spawning habitat, wildlife habitat, and groundwater recharge.
19. The first encountered groundwater is about 75 to 140 feet below the native ground surface. Groundwater elevations range from 126 feet MSL to 177 feet MSL.
20. Monitoring data indicates background groundwater quality has an electrical conductivity (EC) ranging between 325 and 525 micromhos/cm and a total dissolved solids (TDS) concentration ranging between 163 and 300 mg/l.

21. The direction of groundwater flow is toward the southwest. The groundwater gradient measured during first quarter 2004 was 0.01 feet per foot.
22. The designated beneficial uses of the groundwater, as specified in the Basin Plan, are domestic and municipal supply, agricultural supply, industrial service supply, and industrial process supply.

SURFACE AND GROUND WATER MONITORING

23. The current groundwater monitoring system includes four monitoring wells, LF-1A, LF-2, LF-4, and LF-5. Three additional monitoring wells (LF-1, LF-3, and W-2) have previously been included in the groundwater monitoring network. However, these wells are no longer used in the current monitoring system. Monitoring well LF-1 was replaced by monitoring well LF-1A in August 2000 due to an improper screen interval and low groundwater yield. It has been reported that monitoring well LF-3 was abandoned after Unit 1 ceased accepting wastes. Monitoring well W-2 was installed in June 1988 by the United States Environmental Protection Agency as part of the soil and groundwater investigation at the Koppers Superfund Site located adjacent to the former Louisiana-Pacific Corporation mill. It has been reported that monitoring well W-2 was abandoned after the site investigation was completed, but data demonstrating proper destruction of the well has not been provided. All remaining monitoring wells will be abandoned at the completion of the clean-closure project after the Discharger demonstrates that residual wastes left at the site pose no threat to water quality.
24. Monitoring well LF-1A was installed in August 2000 and is located north and hydraulically upgradient of Unit 1. The total depth of well LF-1A is 138 feet with a screen interval between 115 and 135 feet below ground surface (bgs). Monitoring well LF-2 was installed in June 1987 and is located near the southwest corner and hydraulically downgradient of Unit 2. The total depth of well LF-2 is 162 feet with a screen interval between 138 and 158 feet bgs. Monitoring well LF-4 was installed in June 1987 and is located just south and hydraulically down or cross gradient of Unit 1. The total depth of well LF-4 is 160 feet with a screen interval between 129 and 159 feet bgs. Monitoring well LF-5 was installed in June 1987 and is located just south and hydraulically downgradient of Unit 2. The total depth of well LF-5 is 169 feet with a screen interval between 138 and 168 feet bgs.
25. Three unlined storm water detention basins exist at the site. Pond 1 is located at the northwest corner of Unit 1, Pond 5 is located at the western edge of Unit 2, and Pond 7 is located at the southeast corner of the facility. Surface drainage from the site and Units drains toward these three ponds. Once the storm water level in the ponds reaches a specific depth, water discharges off site to surface drainage courses and toward the Feather River. A leachate seep has occasionally appeared at the northwest corner of Unit 1, just above Pond 1. Surface water quality monitoring is required pursuant to this Order and the Surface Water Detection Monitoring Program satisfies the requirements of Title 27.

26. Volatile organic compounds (VOCs) are often detected in a release from a landfill. Since volatile organic compounds are not naturally occurring and thus have no background value, they are not amenable to the statistical analysis procedures contained in Title 27 CCR for the determination of a release of wastes from a Unit.
27. Title 27 CCR Sections 20415(e)(8) and (9) provide for the non-statistical evaluation of monitoring data that will provide the best assurance of the earliest possible detection of a release from a Unit in accordance with Title 27 CCR Section 20415(b)(1)(B)2.-4. However, Title 27 CCR does not specify a specific method for non-statistical evaluation of monitoring data.
28. The Regional Board may specify a non-statistical data analysis method pursuant to Title 27 CCR Section 20080(a)(1). Section 13360(a)(1) of the California Water Code allows the Regional Board to specify requirements to protect underground or surface waters from leakage from a solid waste site, which includes a method to provide the best assurance of determining the earliest possible detection of a release.
29. In order to provide the best assurance of the earliest possible detection of a release of non-naturally occurring waste constituents from a Unit, this Order specifies a non-statistical method for the evaluation of monitoring data.
30. The specified non-statistical method for evaluation of monitoring data provides two criteria (or triggers) for making the determination that there has been a release of non-naturally occurring waste constituents from a Unit. The presence of two non-naturally occurring waste constituents above their respective method detection limit (MDL), or one non-naturally occurring waste constituent detected above its practical quantitation limit (PQL), indicates that a release of waste from a Unit has occurred. Following an indication of a release, verification testing will be conducted to determine whether there has been a release from the Unit, or there is a source of the detected constituents other than the landfill, or the detection was a false detection. Although the detection of one non-naturally occurring waste constituent above its MDL is sufficient to provide for the earliest possible detection of a release, the detection of two non-naturally occurring waste constituents above the MDL as a trigger is appropriate due to the higher risk of false-positive analytical results and the corresponding increase in sampling and analytical expenses from the use of one non-naturally occurring waste constituent above its MDL as a trigger.

FINANCIAL ASSURANCES

31. The Discharger submitted updated Closure and Post-Closure Maintenance Cost Estimates dated 13 July 2006. Costs for closure were estimated to be \$1,602,376.00 and costs for 30 years of post-closure maintenance were estimated to be \$1,427,218.00. The cost estimates included a *Professional Certification for Initial Closure and Post-Closure Maintenance Costs* dated 13 July 2006, which was signed and stamped by the Discharger's consultant, a Registered Professional Engineer. The Discharger and the Regional Water Board are currently engaged in negotiations regarding the amount of

financial assurances described herein. These negotiations may result in the financial assurances being adjusted accordingly.

32. The Discharger established a Letter of Credit dated 29 September 2006 in the amount of \$3,133,494.00 to cover closure and post-closure maintenance costs.
33. The Discharger submitted an 8 April 2004 cost estimate for initiating and completing corrective action for all known or reasonably foreseeable releases from the landfill. The foreseeable release scenario that was used to develop the cost estimate involves corrective action associated with leachate seeps at the landfill surface and potential assessment of groundwater impacts. The 8 April 2004 corrective action cost estimate is \$103,900.00. This estimate has not been increased to reflect inflation factors since its initial development. Additionally, the Discharger has not demonstrated financial assurances for initiating and completing corrective action in the amount of the approved cost estimate, pursuant to Section 22221 of Title 27.
34. Section 22236 of Title 27 requires the Discharger to submit a report **by 1 June of each year** calculating the increase in the cost estimates for closure and/or post-closure maintenance and/or corrective action due to the inflation factor for the previous calendar year. The Discharger must increase the monetary amount of the financial mechanism(s) based upon the inflation factor.

LANDFILL CLOSURE

35. This landfill is not yet closed. The current Discharger has never disposed wastes at the site. The last receipt of waste at the site was to Unit 2 during second quarter of 2001. Several leachate seeps at the northwest corner of Unit 1 have been observed during previous wet weather seasons. Low concentrations of pentachlorophenol and formaldehyde were detected in storm water ponds at the site, including Pond 1 located below the leachate seep locations, during 2003 and 2004.
36. In accordance with Title 27 CCR Section 20950(a)(2)(A)(1), the goal of closure Performance Standards includes, but is not limited to, installation of a final cover to minimize water infiltration into the waste, thereby minimizing the production of leachate and gas.
37. In accordance with Title 27 CCR Section 20950(a)(2)(B), the goal of closure Performance Standards for Units that are clean-closed is to physically remove all waste and contaminated materials from the Unit and from its underlying and surrounding environs, such that the waste in the Unit no longer poses a threat to water quality. Successful completion of clean-closure eliminates the need for any post-closure maintenance period.
38. The Discharger submitted a revised Report of Waste Discharge (ROWD) for Clean-Closure of the Oroville Landfill Properties Class III Wood Waste Landfill dated 20 December 2006. In the ROWD, the Discharger proposes to excavate wood wastes from Units 1 and 2,

process and separate the wastes from cover soils on-site, and then haul the recovered wood waste to a facility approved by the Executive Officer for re-use or disposal. The Discharger also proposes to excavate wood ash from Unit 4 and haul the materials to agricultural lands for use as a soil amendment.

39. This Order allows the Discharger to proceed with clean-closure actions in accordance with Section 21090(f) of Title 27, the 20 December 2006 revised ROWD, and the requirements of these waste discharge requirements and the attached monitoring and reporting program.

CEQA AND OTHER CONSIDERATIONS

40. The action to revise waste discharge requirements for this existing facility is exempt from the provisions of the California Environmental Quality Act (CEQA), Public Resource Code Section 21000, et seq., and the CEQA guidelines, in accordance with Title 14 CCR, Section 15301.

41. This Order implements:

- a. *The Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition* (and subsequent revisions);
- b. The prescriptive standards and performance goals of Chapters 1 through 7, Subdivision 1, Division 2, Title 27 CCR, effective 18 July 1997, and subsequent revisions;
- c. *The Porter-Cologne Water Quality Control Act* (as amended 1 January 2004 and subsequent revisions); and
- d. State Water Resources Control Board Resolution No. 68-16, *Statement of Policy With Respect to Maintaining High Quality of Waters in California*.

42. Section 13267(b) of California Water Code provides that: "In conducting an investigation specified in subdivision (a), the Regional Board may require that any person who has discharged, discharges, or is suspected of discharging, or who proposed to discharge within its region, or any citizen or domiciliary, or political agency or entity of this state who had discharged, discharges, or is suspected of discharging, or who proposed to discharge waste outside of its region that could affect the quality of the waters of the state within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the board requires. The burden, including costs of these reports, shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The monitoring and reporting program required by this Order and the attached "Monitoring and Reporting Program No. R5-2007-0042" are necessary to assure compliance with these waste discharge requirements. The Discharger owns and operates the facility that discharges the waste subject to this Order.

PROCEDURAL REQUIREMENTS

43. All local agencies with jurisdiction to regulate land use, solid waste disposal, air pollution, and to protect public health have approved the use of this site for the discharges of waste to land stated herein. No local agency has expressed any concern regarding clean-closure of the Units at the landfill.
44. The Regional Board notified the Discharger and interested agencies and persons of its intent to prescribe waste discharge requirements for the clean-closure project, and has provided them with an opportunity for a public hearing and an opportunity to submit their written views and recommendations.
45. The Regional Board, in a public meeting, heard and considered all comments pertaining to the discharge.
46. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board to review the action in accordance with Sections 2050 through 2068, Title 23, California Code of Regulations. The petition must be received by the State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812, within 30 days of the date of issuance of this Order. Copies of the laws and regulations applicable to the filing of a petition are available on the Internet at http://www.swrcb.ca.gov/water_laws/index.html and will be provided on request.

IT IS HEREBY ORDERED, pursuant to Sections 13263 and 13267 of the California Water Code, that Order No. R5-2005-0027 is rescinded, and Oroville Landfill Properties, Oroville Landfill Properties LLC, Jack M. Steebles LLC, Carol Ann Seidenglanz LLC, and Steven Conn Seidenglanz LLC, its agents, successors, and assigns, in order to meet the provisions of Division 7 of the California Water Code and the regulations adopted thereunder, shall comply with the following:

A. PROHIBITIONS

1. The discharge of 'hazardous waste' or 'designated waste' to any part of this facility is prohibited. For the purposes of this Order, the term 'hazardous waste' is as defined in Title 23 CCR, Section 2510 et seq., and 'designated waste' is as defined in Title 27 CCR.
2. The discharge of waste to any Unit is prohibited, with the exception of temporary storage of materials recovered during clean-closure activities at Units 1, 2, and 4.
3. The discharge of wastes outside of a Unit or portions of a Unit specifically designed for their containment is prohibited.

4. Any waste that has been discharged at this site or recovered as part of the landfill clean-closure activities shall not cause a release of pollutants, or waste constituents in a manner that could cause a condition of nuisance, degradation, contamination, or pollution of groundwater or surface water to occur, as indicated by the most appropriate statistical or nonstatistical data analysis method and retest method listed in this Order, the Monitoring and Reporting Program, or the Standard Provisions and Reporting Requirements.
5. The discharge of solid or liquid waste or leachate to surface waters, surface water drainage courses, or groundwater is prohibited.
6. Waste that has been discharged at this site shall not cause an increase in the concentration of waste constituents in soil-pore gas, soil-pore liquid, soil, or other geologic materials outside of the Unit if such waste constituents could migrate to waters of the State — in either the liquid or the gaseous phase — and cause a condition of nuisance, degradation, contamination, or pollution.
7. Clean-closure operations shall be managed so that nuisance conditions, including offensive odors, off-site noise impacts, off-site lighting impacts, fugitive dust, traffic congestion, etc., are not created. Complaints regarding nuisance conditions may require modification of clean-closure site operation activities.

B. FACILITY SPECIFICATIONS

1. The Discharger shall, in a timely manner, remove and relocate any waste discharged at this facility in violation of this Order.
2. The Discharger shall immediately notify the Regional Board of any flooding, unpermitted discharge of waste off-site, equipment failure, slope failure, or other change in site conditions that could impair the integrity of waste or leachate containment facilities or precipitation and drainage control structures.
3. Water used for facility maintenance shall be limited to the minimum amount necessary for dust control and construction.
4. The Discharger shall maintain in good working order any facility, control system, or monitoring device installed to achieve compliance with the waste discharge requirements.
5. Methane and other landfill gases shall be adequately vented, removed from the Unit, or otherwise controlled to prevent the danger of adverse health effects, nuisance conditions, or the impairment of beneficial uses of surface water or groundwater due to migration through the unsaturated zone.

6. Surface drainage within the waste management facility shall be directed to one of three storm water detention basins. Additional surface water detention or retention basins may be necessary as clean-closure activities proceed. Each detention basin shall be operated and maintained to minimize vectors and odors. A freeboard of at least two feet shall be maintained in each detention basin at all times.
7. The Discharger shall maintain a *Storm Water Pollution Prevention Plan and Monitoring Program and Reporting Requirements* that is site specific and addresses clean-closure of landfill Units in accordance with State Water Resources Control Board Order No. 97-03-DWQ and subsequent replacement Orders. Any storm water discharge off site shall be done in accordance with applicable storm water regulations and Monitoring and Reporting Program No. R5-2007-0042.
8. The Discharger shall submit for Executive Officer review and approval **by 1 October annually for the life of the clean-closure project and the post-clean-closure monitoring period** a Winterization Plan. The Winterization Plan should describe specific erosion and sediment control best management practices (BMPs) to be implemented for each upcoming wet weather season and include a discussion regarding any proposed clean-closure work activities during the wet weather season. The Winterization Plan shall also include a site map showing anticipated storm water drainage patterns and locations of major BMPs. The Winterization Plan shall be implemented **by 1 November annually**.

C. CLEAN-CLOSURE SPECIFICATIONS

1. The Discharger shall submit at least **30 days prior to beginning clean-closure excavation activities and no later than 15 June 2007**, a detailed clean-closure construction schedule. The schedule shall describe specific activities and the Unit they are proposed to occur in, anticipated installation of appurtenant structures such as additional detention/retention ponds to assist with storm water management, and anticipated installation of nuisance controls that may be necessary to maintain compliance with this Order. The schedule shall be updated at least quarterly in the Facility Clean-Closure Monitoring Reports.
2. Materials recovered from Units 1 and 2 shall be segregated from materials recovered in Unit 4 at all times.
3. Ash recovered from Unit 4 and hauled off-site for use as a soil amendment shall be applied at appropriate agronomic rates.
4. Wood ash may only be applied to agricultural lands in a manner that does not cause pollution or nuisances. Ash applied to agricultural lands as a soil amendment shall be disked or tilled into the native ground by the landowner within seven days after being discharged. If the ash is not disked or tilled into the ground surface within seven days after discharge, then appropriate wind/water erosion and sediment

control BMPs shall be installed by the landowner around the stockpile to prevent nuisances and discharges of ash to surface water drainage courses.

5. The following minimum setback distances shall be required for ash discharged to agricultural lands:

To Prevent Nuisance Conditions

From Occupied Dwelling	300 feet
From Businesses, Schools, Hospitals, or Churches	300 feet

To Protect Water Quality

From Ponds, Lakes, Streams, Wetlands	100 feet
From Natural and Man Made Drainages	100 feet
From Wells or Springs	100 feet

6. The Discharger shall ensure its compliance with this Order for all off-site discharges of wood ash excavated from Unit 4. The Discharger shall notify the property owner where ash is applied of the ash management requirements of this Order.
7. The Discharger shall submit for Executive Officer review and approval **prior to beginning clean-closure activities and no later than 15 June 2007** a work plan proposing to assess wood waste applications on the south and eastern portion of APN 078-100-046, the southeastern section of APN 078-100-015, and the eastern majority of APN 078-090-014. The work plan should include a sampling program and discuss specific ways to determine whether residual wood waste that may be on the parcels poses a threat to surface water quality, groundwater quality, or public health and the environment.
8. With the exception of rock that may be recovered during waste processing operations, materials (soil/rock/residual waste – spoils piles) separated from recovered wood waste in Units 1 and 2 shall be sampled and analyzed for the constituents and at the frequencies listed in Monitoring and Reporting Program No. R5-2007-0042. These sample results shall be reviewed and approved by the Executive Officer prior to discharging the spoils back to land on-site. Recovered rock shall be stored on-site and used by the Discharger at their discretion. Any proposal to haul spoils (including rock) off-site shall be reviewed and approved by the Executive Officer.
9. Wastes in each Unit that become exposed due to clean-closure activities and stockpiled recovered materials shall be covered with canvas tarps, plastic tarps, or six inches of soil at the end of each workday. Wastes or stockpiled recovered materials that will be left undisturbed for more than 90 days shall be covered with

- 12 inches of soil. Appropriate erosion and sediment control BMPs shall be installed as needed.
10. Leachate that may be encountered during clean-closure activities shall be collected, quantified, and stored on-site until necessary characterization is completed in accordance with Monitoring and Reporting Program No. R5-2007-0042 and off-site disposal is arranged, as approved by the Executive Officer.
 11. Decommissioned groundwater monitoring wells that may be encountered in Units 1 or 2 during clean-closure excavation activities shall be properly destroyed under permit from Butte County Environmental Health Division. Any well that is not completely removed from a Unit during clean-closure activities shall be marked on a final site map to be included with the Final Clean-Closure Report.
 12. The Discharger shall submit by **1 August 2007** a Confirmation Sampling Plan that is acceptable to the Executive Officer. The Confirmation Sampling Plan should involve visual inspections and include laboratory analyses of native subgrade soils below each Unit and each sediment detention basin. Sideslope sampling may also be necessary to demonstrate wastes no longer pose a threat to water quality. Typical confirmation sampling programs include use of numbered grids and random number generators to establish sampling locations. Guidance documents such as the U.S.E.P.A. SW 846 Manual (Chapter 9) should be useful with helping develop a site and Unit specific confirmation sampling program.
 13. The Discharger shall monitor groundwater beneath the facility and perform the Standard Observations listed in Monitoring and Reporting Program No. R5-2007-0042 for two consecutive years following completion of clean-closure excavation activities. Upon completion of the two-year post-clean-closure maintenance period, the Discharger may request termination of all monitoring requirements.
 14. The Discharger shall submit a work plan for destruction of each Detection Monitoring Program groundwater monitoring well upon completion of the two-year post-clean-closure maintenance period. All wells shall be destroyed under permit from Butte County Environmental Health Division.
 15. Within 60 days after completing clean-closure of Units 1, 2, and 4 and the sawdust application areas on APNs 078-100-046, 078-100-015, and 078-090-014, the Discharger shall submit a Final Clean-Closure Report that documents all investigation and waste removal activities undertaken during the project. The Final Clean-Closure Report shall also include a site map indicating final topography, all laboratory data (excluding Detection Monitoring Program groundwater, surface water, and leachate monitoring results), volumes/tonnages of wastes hauled off-site, and final end-use locations of recovered materials.

16. If the Discharger's attempt to clean-close the landfill does not succeed or fails to meet the requirements or purpose stated within Section 21090(f) of Title 27 or fails to comply with the requirement of this Order, then the Discharger shall close the landfill in accordance with the Closure and Post-Closure Standards listed in Chapter 1, Subchapter 5, of Title 27 beginning with Section 20950, and carry out post-closure maintenance in the same manner as though the Discharger had not attempted clean-closure.
17. If the Discharger fails to excavate and remove wastes from the site and/or fails to proceed with clean-closure activities for a period of 12 consecutive months, then the clean-closure project shall be deemed incomplete and the Discharger shall close the landfill in accordance with the Closure and Post-Closure Standards listed in Chapter 1, Subchapter 5, of Title 27 beginning with Section 20950, and carry out post-closure maintenance in the same manner as though the Discharger had not attempted clean-closure.

D. DETECTION MONITORING SPECIFICATIONS

1. The Discharger shall comply with the detection monitoring program provisions of Title 27 CCR for groundwater and surface water.
2. The Discharger shall conduct groundwater, surface water, and leachate monitoring as specified in Monitoring and Reporting Program No. R5-2007-0042.
3. The Discharger shall provide Regional Board staff a minimum of **one week** notification prior to commencing any field activities related to the installation, repair, or abandonment of monitoring devices, and a minimum 48 hour notification prior to the collection of samples associated with a detection monitoring program, evaluation monitoring program, or corrective action program.
4. The Discharger shall submit for Executive Officer review and approval **by 15 June 2007** a Water Quality Protection Standard Report in accordance with applicable provisions of Title 27 and Monitoring and Reporting Program No. R5-2007-0042.
5. The Discharger shall comply with the Water Quality Protection Standard as required in this Order, Monitoring and Reporting Program No. R5-2007-0042, and the Standard Provisions and Reporting Requirements, dated April 2000.
6. The Water Quality Protection Standard for organic compounds that are not naturally occurring and not detected in background groundwater samples shall be taken as the detection limit of the analytical method used (i.e., US-EPA methods 8260 and 8270). The repeated detection of one or more non-naturally occurring organic compounds in samples above the Water Quality Protection Standard from detection monitoring wells is evidence of a release from the Unit.

7. The concentrations of the constituents of concern in waters passing the Point of Compliance shall not exceed the concentration limits established in the Water Quality Protection Standard Report.
8. For each monitoring event, the Discharger shall determine whether the landfill is in compliance with the Water Quality Protection Standard using procedures specified in Monitoring and Reporting Program No. R5-2007-0042 and Title 27 CCR Section 20415(e).
9. The Discharger shall submit **by 15 June 2007** for Executive Officer review and approval a Sample Collection and Analysis Plan. The Sample Collection and Analysis Plan shall at a minimum include:
 - a. Sample collection procedures describing purging techniques, sampling equipment, and decontamination of sampling equipment;
 - b. Sample preservation information and shipment procedures;
 - c. Sample analytical methods and procedures;
 - d. Sample quality assurance/quality control (QA/QC) procedures; and
 - e. Chain of Custody control.
10. For any given monitored medium, the samples taken from all monitoring points and background monitoring points to satisfy the data analysis requirements for a given reporting period shall all be taken **within a span not to exceed 30 days**, unless the Executive Officer approves a longer time period, and shall be taken in a manner that ensures sample independence to the greatest extent feasible. Specific methods of collection and analysis must be identified. Sample collection, storage, and analysis shall be performed according to the most recent version of USEPA Methods, such as the latest editions, as applicable, of: (1) Methods for the Analysis of Organics in Water and Wastewater (USEPA 600 Series), (2) Test Methods for Evaluating Solid Waste (SW-846, latest edition), and (3) Methods for Chemical Analysis of Water and Wastes (USEPA 600/4-79-020), and in accordance with the approved Sample Collection and Analysis Plan.
11. If methods other than USEPA-approved methods or Standard Methods are used, the exact methodology shall be submitted for review and approval by the Executive Officer prior to use.
12. The **methods of analysis and the detection limits** used must be appropriate for the expected concentrations. The analytical method having the lowest method detection limit (MDL) shall be selected from among those methods, which would provide valid results in light of any matrix effects or interferences.

13. **"Trace" results** - results falling between the MDL and the practical quantitation limit (PQL) - shall be reported as such, and shall be accompanied both by the estimated MDL and PQL values for that analytical run.
14. **MDLs and PQLs** shall be derived by the laboratory for each analytical procedure, according to State of California laboratory accreditation procedures. These MDLs and PQLs shall reflect the detection and quantitation capabilities of the specific analytical procedure and equipment used by the lab, rather than simply being quoted from USEPA analytical method manuals. In relatively interference-free water, laboratory-derived MDLs and PQLs are expected to closely agree with published USEPA MDLs and PQLs.
15. If the laboratory suspects that, due to a change in matrix or other effects, the true detection limit or quantitation limit for a particular analytical run differs significantly from the laboratory-derived MDL/PQL values, the results shall be flagged accordingly, along with estimates of the detection limit and quantitation limit actually achieved. The **MDL shall always be calculated such that it represents the lowest achievable concentration associated with a 99% reliability of a nonzero result.** The PQL shall always be calculated such that it represents the lowest constituent concentration at which a numerical value can be assigned with reasonable certainty that it represents the constituent's actual concentration in the sample. Normally, PQLs should be set equal to the concentration of the lowest standard used to calibrate the analytical procedure.
16. All **QA/QC data** shall be reported, along with the sample results to which they apply, including the method, equipment, analytical detection and quantitation limits, the percent recovery, an explanation for any recovery that falls outside the QC limits, the results of equipment and method blanks, the results of spiked and surrogate samples, the frequency of quality control analysis, and the name of the person(s) performing the analyses. Sample results shall be reported unadjusted for blank results or spike recoveries. In cases where contaminants are detected in QA/QC samples (i.e., field, trip, or lab blanks), the accompanying sample results shall be appropriately flagged.
17. Unknown chromatographic peaks shall be reported, flagged, and tracked for potential comparison to subsequent unknown peaks that may be observed in future sampling events. Identification of unknown chromatographic peaks that recur in subsequent sampling events may be required.
18. The statistical method shall account for data below the practical quantitation limit (PQL) with one or more statistical procedures that are protective of human health and the environment. Any PQL validated pursuant to Title 27 CCR Section 20415(e)(7) that is used in the statistical method shall be **the lowest concentration (or value) that can be reliably achieved** within limits of precision and accuracy

specified in the WDRs for routine laboratory operating conditions that are available to the facility. The Discharger's technical report, pursuant to Title 27 CCR Section 20415(e)(7), shall consider the PQLs listed in Appendix IX to Chapter 14 of Division 4.5 of Title 22, CCR, for guidance when specifying limits of precision and accuracy. For any given constituent monitored at a background or downgradient monitoring point, an indication that falls between the MDL and the PQL for that constituent (hereinafter called a "trace" detection) shall be identified and used in appropriate statistical or nonstatistical tests. Nevertheless, for a statistical method that is compatible with the proportion of censored data (trace and ND indications) in the data set, the Discharger can use the laboratory's concentration estimates in the trace range (if available) for statistical analysis, in order to increase the statistical power by decreasing the number of "ties".

19. Background for water samples shall be represented by the data from all samples taken from applicable background monitoring points during that reporting period (at least one sample from each background monitoring point).
20. The Discharger may propose an alternate statistical method [to the methods listed under Title 27 CCR Section 20415(e)(8)(A-D)] in accordance with Title 27 CCR Section 20415(e)(8)(E), for review and approval by the Executive Officer. Upon receiving written approval from the Executive Officer, alternate statistical procedures may be used for determining the significance of analytical results for common laboratory contaminants (i.e., methylene chloride, acetone, diethylhexyl phthalate, and di-n-octyl phthalate). Nevertheless, analytical results involving detection of these analytes in any background or downgradient sample shall be reported and flagged for easy reference by Regional Board staff.
21. The Discharger shall use the following non-statistical method for all analytes that are detected in less than 10% of the background samples. The non-statistical method shall be implemented as follows:
 - a. From the constituent of concern or monitoring parameter list, identify each analyte in the **current** sample that exceeds either its respective MDL or PQL. The Discharger shall conclude that the exceedance provides a preliminary indication of a release or a change in the nature or extent of the release, at that monitoring point, if **either**:
 - 1) The data contains two or more analytes that are detected in less than 10% of background samples that equal or exceed their respective MDLs; or
 - 2) The data contains one or more analyte that equals or exceeds its PQL.

b. **Discrete Retest** [Title 27 CCR Section 20415(e)(8)(E)]:

- 1) In the event that the Discharger concludes that there is a preliminary indication of a release, then the Discharger shall immediately notify Regional Board staff by phone or e-mail and, within 30 days of such indication, shall collect two new (retest) samples from the monitoring point where the release is preliminarily indicated.
- 2) For any given retest sample, the Discharger shall include, in the retest analysis, **only the laboratory analytical results for those analytes detected in the original sample**. As soon as the retest data are available, the Discharger shall conclude that there is measurably significant evidence of a release if two or more analytes equal or exceed their respective MDLs or if one or more analyte equals or exceeds its PQL and shall:
 - a) **Immediately** notify the Regional Board about any constituent or constituents verified to be present at the monitoring point, and follow up with written notification submitted by certified mail **within seven days** of validation; and
 - b) Comply with ¶22, below if any constituent or constituents were verified to be present.
- 3) Any analyte that triggers a discrete retest per this method shall be added to the monitoring parameter list such that it is monitored during each regular monitoring event.

22. If the Discharger determines that there is measurably significant evidence of a release from the Unit at any monitoring point, the Discharger shall **immediately** implement the requirements of **XI. Response To A Release, C. Release Has Been Verified**, contained in the Standard Provisions and Reporting Requirements.

E. PROVISIONS

1. The Discharger shall maintain a copy of this Order at the facility and make it available at all times to facility operating personnel, who shall be familiar with its contents, and to regulatory agency personnel.
2. The Discharger shall comply with all applicable provisions of Title 27 CCR that are not specifically referred to in this Order.
3. The Discharger shall comply with Monitoring and Reporting Program No. R5-2007-0042, which is incorporated into and made part of this Order.

4. The Discharger shall comply with the applicable portions of the *Standard Provisions and Reporting Requirements for Chapter 15 (23 CCR 2510, et seq.) and Part 258 (40 CFR 258)*, dated September 1993, which are hereby incorporated into this Order.
5. All reports and transmittal letters shall be signed by persons identified below:
 - a. For a corporation: by a principal executive officer of at least the level of senior vice-president.
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor.
 - c. For a municipality, state, federal or other public agency: by either a principal executive officer or ranking elected or appointed official.
 - d. A duly authorized representative of a person designated in a, b, or c above if;
 - 1) The authorization is made in writing by a person described in a, b, or c of this provision;
 - 2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a Unit, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
 - 3) The written authorization is submitted to the Regional Board.
 - e. Any person signing a document under this Section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."
6. The Discharger shall take all reasonable steps to minimize any adverse impact to the waters of the State resulting from noncompliance with this Order. Such steps shall include accelerated or additional monitoring as necessary to determine the nature, extent, and impact of the noncompliance.

7. The owner of the waste management facility shall have the continuing responsibility to assure protection of waters of the state from discharged wastes and from gases and leachate generated by discharged waste during the active life, clean-closure, and post-clean-closure maintenance period of the Unit(s) and until the clean-closure project is completed and the waste discharge requirements are rescinded.
8. The fact that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this Order shall not be regarded as a defense for the Discharger's violations of the Order.
9. To assume ownership or operation under this Order, the succeeding owner or operator must apply in writing to the Regional Board requesting transfer of the Order within 14 days of assuming ownership or operation of this facility. The request must contain the requesting entity's full legal name, the State of incorporation if a corporation, the name and address and telephone number of the persons responsible for contact with the Regional Board, and a statement. The statement shall comply with the signatory requirements contained in Provision E.5. above and state that the new owner or operator assumes full responsibility for compliance with this Order. Failure to submit the request shall be considered a discharge without requirements, a violation of the California Water Code. Transfer of this Order shall be approved or disapproved by the Regional Board.
10. The Discharger shall submit for Executive Officer review and approval **by 15 June 2007** updated cost estimates for initiating and completing corrective action for all known or reasonably foreseeable releases from the landfill in accordance with Section 22221 of Title 27. The Discharger shall demonstrate adequate financial resources for initiating and completing corrective action for all known or reasonably foreseeable releases in the amount of the approved cost estimate using one of the approved mechanisms in Title 27 **by 1 August 2007**.
11. The Discharger shall maintain financial assurance mechanisms for closure, post-closure maintenance, and corrective action costs in amounts approved by the Executive Officer and as specified in Chapter 6 of Title 27 until the post-clean-closure maintenance period is completed and approved by the Executive Officer.
12. The Discharger shall submit for Executive Officer review and approval **by 1 June annually**, a report calculating the increase in the cost estimates for closure and/or post-closure maintenance and/or corrective action due to the inflation factor for the previous calendar year in accordance with Section 22236 of Title 27. Once the inflation factor adjusted cost estimates are approved, the Discharger shall increase the monetary amount of the financial mechanisms for closure and/or post-closure maintenance and/or corrective action based upon the inflation factor calculation and provide proof of the financial assurance increase **by 1 August annually**.

13. Upon completion of the clean-closure project and the post-clean-closure maintenance period and with the approval of the Executive Officer, all financial assurances shall be released to the Discharger.
14. The Discharger shall complete the tasks contained in these waste discharge requirements in accordance with the following time schedule:

<u>TASK</u>	<u>COMPLIANCE DATE</u>
A. Clean Closure	
1. Submit a detailed clean-closure construction schedule. (see <i>Clean-Closure Specification C.1</i>)	By 15 June 2007
2. Submit a work plan proposing to assess wood waste application activities on the south and eastern portion of APN 078-100-046, the southeastern section of APN 078-100-015, and the eastern majority of APN 078-090-014. (see <i>Clean-Closure Specification C.7</i>)	By 15 June 2007
3. Submit a Confirmation Sampling Plan that is acceptable to the Executive Officer. (see <i>Clean-Closure Specification C.12</i>)	By 1 August 2007
4. Submit a work plan proposing destruction of all groundwater detection monitoring wells. (see <i>Clean-Closure Specification C.14</i>)	Before Project Completion
5. Submit a Final Clean-Closure Report that documents all investigation and waste removal activities undertaken during the project. (see <i>Clean-Closure Specification C.15</i>)	60 Days After Project Completion
B. Facility Monitoring	
1. Submit a Winterization Plan. (see <i>Facility Specification B.8</i>)	By 1 October Annually
2. Submit a Water Quality Protection Standard Report. (see <i>Detection Monitoring Specification D.4</i>)	By 15 June 2007
3. Submit a Sample collection and Analysis Plan. (see <i>Detection Monitoring Specification D.9</i>)	By 15 June 2007

<u>TASK</u>	<u>COMPLIANCE DATE</u>
C. Financial Assurances	
1. Submit updated cost estimates for initiating and completing corrective action for all known or reasonably foreseeable releases. (see Provision E. 10)	By 15 June 2007
2. Provide proof of adequate financial assurances in the amount of the approved cost estimate for known or reasonably foreseeable releases. (see Provision E.10)	By 1 August 2007
3. Provide a report calculating the increase in the cost estimates for closure and/or post-closure maintenance and/or corrective action due to the inflation factor for the previous calendar year. (see Provision E.12)	By 1 June Annually
4. Provide proof that the financial mechanisms for closure and/or post-closure maintenance and/or corrective action have been increased based upon the annual inflation factor calculation. (see Provision E.12)	By 1 August Annually

I, PAMELA C. CREEDON, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 4 May 2007.

DPS: sae
5/14/07

PAMELA C. CREEDON, Executive Officer

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

MONITORING AND REPORTING PROGRAM NO. R5-2007-0042

FOR
OROVILLE LANDFILL PROPERTIES, OROVILLE LANDFILL PROPERTIES LLC,
JACK M. STEEBLES LLC, CAROL ANN SEIDENGLANZ LLC,
AND STEVEN CONN SEIDENGLANZ LLC

FOR
CLEAN-CLOSURE OF
OROVILLE LANDFILL PROPERTIES CLASS III WOOD WASTE LANDFILL
BUTTE COUNTY

Compliance with this Monitoring and Reporting Program, with Title 27, California Code of Regulations, Section 20005, et seq. (hereafter Title 27), and with the *Standard Provisions and Reporting Requirements for Chapter 15 (23 CCR 2510, et seq) and Part 258 (40 CFR 258)* dated September 1993, is ordered by Waste Discharge Requirements Order No. R5-2007-0042.

A. REQUIRED MONITORING REPORTS

<u>REPORT</u>	<u>FREQUENCY</u>
1. Groundwater Monitoring (see D.1 below)	See Table 1
2. Annual Monitoring Summary Report (see E.6. below)	Annually by 31 January
3. Leachate Monitoring (see D.2 below)	See Table II
4. Surface Water Monitoring (see D.3 below)	See Table III
5. Facility Clean-Closure Monitoring Report (see D.4 below)	Quarterly
6. Winterization Plan	Annually by 1 October
7. Response to a Release (Standard Provisions and Reporting Requirements)	As necessary

B. REPORTING

The Discharger shall report monitoring data and information as required in this Monitoring and Reporting Program and as required in Order No. R5-2007-0042 and the Standard Provisions and Reporting Requirements. Reports that do not comply with the required format will be **REJECTED** and the Discharger shall be deemed to be in noncompliance with the waste discharge requirements. In reporting the monitoring data required by this program, the Discharger shall arrange the data in tabular form so that the date, the constituents, the concentrations, and the units are readily discernible. The data shall be summarized in such a manner so as to illustrate clearly compliance with the waste discharge requirements or the lack thereof. Data shall also be submitted in a digital format acceptable to the Executive Officer. Each monitoring report shall include a compliance evaluation summary as specified in

Reporting Requirements E.4 below.

Field and laboratory tests shall be reported in each monitoring report. Quarterly, semiannual, and annual monitoring reports shall be submitted to the Regional Board in accordance with the following schedule for the calendar period in which samples were taken or observations made.

<u>Sampling Frequency</u>	<u>Reporting Frequency</u>	<u>Reporting Periods End</u>	<u>Report Date Due</u>
Quarterly	Quarterly	31 March	30 April
		30 June	31 July
		30 September	31 October
		31 December	31 January
Semiannually	Semiannually	30 June	31 July
		31 December	31 January
Annually	Annually	31 December	31 January

The results of **all monitoring** conducted at the site shall be reported to the Regional Board in accordance with the reporting schedule above for the calendar period in which samples were taken or observations made.

The Discharger shall also submit an **Annual Monitoring Summary Report** to the Regional Board covering the previous monitoring year. The annual report shall contain the information specified in Reporting Requirements E.6 below, and a discussion of compliance with the Waste Discharge Requirements and the Water Quality Protection Standard.

C. WATER QUALITY PROTECTION STANDARD AND COMPLIANCE PERIOD

The Discharger shall submit a Water Quality Protection Standard Report in accordance with Detection Monitoring Specification D.4 of Order No. R5-2007-0042. For each waste management unit (Unit), the Water Quality Protection Standard shall consist of all monitoring parameters and constituents of concern, the point of compliance, and all water quality monitoring points for each monitored medium. The Water Quality Protection Standard, or any modification thereto, shall be submitted in a report for Executive Officer review and approval.

1. Water Quality Protection Standard Report

The report shall:

- a. Identify **all distinct bodies of surface (ie: storm water detention ponds) and ground water** that could be affected in the event of a release from a Unit or portion of a Unit. This list shall include at least each surface water detention pond, the uppermost aquifer, and any permanent or ephemeral zones of perched groundwater underlying the facility.
- b. Include a map showing the monitoring points and background monitoring points

for the surface water monitoring program and the groundwater monitoring program. The map shall include the point of compliance in accordance with §20405 of Title 27.

- c. Evaluate the perennial direction(s) of groundwater movement within the uppermost groundwater zone(s).

The Water Quality Protection Standard shall be certified by a California-registered Professional Civil Engineer or Professional Geologist as meeting the requirements of Title 27. If subsequent sampling of the background monitoring point(s) indicates significant water quality changes due to either seasonal fluctuations or other reasons unrelated to waste management activities at the site, the Discharger may request modification of the Water Quality Protection Standard.

2. Constituents of Concern

The constituents of concern include all the waste constituents, their reaction products, and hazardous constituents that are reasonably expected to be in or derived from waste contained in the Unit. The Discharger shall monitor all constituents of concern in accordance with the frequencies and methods listed in Tables 1 through IV.

a. Monitoring Parameters

Monitoring parameters are constituents of concern that are the waste constituents, reaction products, hazardous constituents, and physical parameters that provide a reliable indication of a release from a Unit. The monitoring parameters for all Units are those listed in Tables I through IV for the specified monitored medium.

3. Concentration Limits

For a naturally occurring constituents of concern, the concentration limit shall be determined as follows:

- a. By calculation in accordance with a statistical method pursuant to §20415 of Title 27; or
- b. By an alternate statistical method acceptable to the Executive Officer in accordance with §20415 of Title 27.

4. Point of Compliance

The point of compliance for the water standard at each Unit is a vertical surface located at the hydraulically downgradient limit of the Unit that extends through the uppermost

aquifer underlying the Unit.

5. Compliance Period

The compliance period for each Unit shall be the number of years equal to the active life of the Unit plus the post-clean-closure maintenance period. The compliance period is the minimum period during which the Discharger shall conduct a water quality monitoring program subsequent to a release from the Unit. The compliance period shall begin anew each time the Discharger initiates an Evaluation Monitoring Program.

D. MONITORING

The Discharger shall comply with the detection monitoring program provisions of Title 27 for groundwater and surface water in accordance with Detection Monitoring Specifications D.1 and D.2 of Waste Discharge Requirements, Order No. R5-2007-0042. All monitoring shall be conducted in accordance with a Sample Collection and Analysis Plan, which includes quality assurance/quality control standards, that shall be submitted for review and approval by the Executive Officer.

All point of compliance monitoring wells established for the detection monitoring program shall constitute the monitoring points for the groundwater Water Quality Protection Standard. All detection monitoring program groundwater monitoring wells, leachate monitoring points, and surface water monitoring points shall be sampled and analyzed for monitoring parameters and constituents of concern as indicated and listed in Tables I through IV.

Method detection limits and practical quantitation limits shall be reported. All peaks shall be reported, including those that cannot be quantified and/or specifically identified. Metals shall be analyzed in accordance with the methods listed in this Order and Table IV.

The Discharger may, with the approval of the Executive Officer, use alternative analytical test methods, including new USEPA approved methods, provided the methods have method detection limits equal to or lower than the analytical methods specified in this Monitoring and Reporting Program.

1. Groundwater

The Discharger shall operate and maintain a groundwater detection monitoring system that complies with the applicable provisions of §20415 and §20420 of Title 27 in accordance with a Detection Monitoring Program approved by the Executive Officer. The Discharger shall collect, preserve, and transport groundwater samples in accordance with an approved Sample Collection and Analysis Plan. The current groundwater monitoring system at Oroville Landfill Properties Class III

Wood Waste Landfill includes four monitoring wells, LF-1A, LF-2, LF-4, and LF-5. Basic construction details for the wells are described below:

Well ID	Year Installed	Total Depth in Feet	Screen Interval	Well Type
LF-1A	2000	138 ft. bgs	115 to 135 ft. bgs	Background
LF-2	1987	162 ft. bgs	138 to 158 ft. bgs	Compliance
LF-4	1987	160 ft. bgs	129 to 159 ft. bgs	Compliance
LF-5	1987	169 ft. bgs	138 to 168 ft. bgs	Compliance

bgs – Below ground surface

During each calendar quarter, the Discharger shall determine the groundwater flow rate and direction in the uppermost aquifer and in any zones of perched water and in any additional zone of saturation monitored pursuant to this Monitoring and Reporting Program, and report the results semiannually, including the times of highest and lowest elevations of the water levels in the wells.

Hydrographs of each well shall be submitted showing the elevation of groundwater with respect to the elevations of the top and bottom of the screened interval and the elevation of the pump intake. Hydrographs of each well shall be prepared and submitted with each Semiannual Groundwater, Surface Water, and Leachate Monitoring Report.

Groundwater samples shall be collected semiannually from the point-of-compliance wells, background wells, and any additional wells added as part of the approved groundwater monitoring system. Samples shall be collected and analyzed for the monitoring parameters and constituents of concern in accordance with the frequencies specified in Tables I. All monitoring parameters and constituents of concern shall be graphed so as to show historical trends at each sample location. The monitoring parameters shall also be evaluated each reporting period with regards to the cation/anion balance, and the results shall be graphically presented using a Stiff diagram, a Piper graph, or a Schoeller plot.

Groundwater monitoring results shall be reported semiannually.

2. Leachate Monitoring

All three Units at the Oroville Landfill Properties Class III Wood Waste Landfill are unlined and no leachate collection and removal system exists at the site. However, leachate seeps have previously been observed along the ground surface at the northwestern portion of Unit 1. Additionally, the Discharger encountered at least one area of perched accumulated leachate within Unit 1 during the clean-closure pilot study.

In response to the leachate seeps, the Discharger installed a leachate seep control

system in September 2004. The leachate seep control system consists of a plastic lined interceptor trench with a perforated collection pipe placed in the bottom. Blank collection pipe extends down the hillside from the seep area toward a 500 gallon plastic holding tank.

The leachate seep control system shall be inspected weekly from 1 October through 31 May annually, and monthly from 1 June through 30 September annually. Additionally, the system shall be inspected within 24 hours after any storm event of 1 inch or greater rainfall. Upon detection of leachate in the holding tank, the Discharger shall sample the liquid and analyze for the constituents listed in Table II. Inspection dates, observations, and sample results shall be reported with the corresponding Semiannual Groundwater, Surface Water, and Leachate Monitoring Report for the period when samples were collected or observations. The quantity of leachate shall be *estimated* and reported as Leachate Flow Rate (in gallons/day).

In addition, any leachate that may be encountered during clean-closure activities of the Units shall be collected and stored on-site until characterization and off-site disposal is arranged. **The volume and disposition of any leachate that is encountered during clean-closure activities shall be reported in the corresponding Quarterly Facility Clean-Closure Monitoring Report and the Semiannual Groundwater, Surface Water, and Leachate Monitoring Report, for the period when the observations were made and/or samples collected.** Documentation of proper disposal of collected leachate shall be reported in the appropriate Quarterly Facility Clean-Closure Monitoring Report and the Semiannual Groundwater, Surface Water, and Leachate Monitoring Report for the time period when leachate disposal occurred.

3. Surface Water Monitoring

Three unlined storm water detention basins exist at the site. Pond 1 is located at the northwest corner of Unit 1, Pond 5 is located at the western edge of Unit 2, and Pond 7 is located at the southeast corner of the facility beyond the eucalyptus grove and sawdust application area. Surface drainage from the site and Units drains towards these three ponds.

Site drainage patterns may change as clean-closure of each Unit proceeds. The Discharger is responsible for ensuring that wastes do not impact surface water drainage courses and that all storm water discharges are in compliance with applicable regulations, the Basin Plan, and State Water Resources Control Board Order No 97-03-DWQ and subsequent replacement Orders.

The Discharger shall monitor the three detention basins weekly between 1 October and 31 May annually, and monthly between 1 June and 30 September annually to ensure that two feet or more of freeboard exists. Liquid in the detention

basins shall be sampled for the constituents and at the frequencies listed in Table III. All monitoring parameters shall be graphed so as to show historical trends at each sample location. **Results of the surface water monitoring program shall be reported in each Semiannual Groundwater, Surface Water, and Leachate Monitoring Report.**

4. Facility Clean-Closure Monitoring

Clean-closure of Units 1, 2, and 4 involves excavating wood wastes and wood ash and hauling them off-site to locations or facilities approved by the Executive Officer. Units 1 and 2 contain wood wastes, while Unit 4 contains wood ash. Clean-closure monitoring is broken down by Unit and the type of materials to be characterized (ie: wood waste, wood ash, separated soil/rock/waste mix {spoils pile}, and confirmation sampling of the native soil subgrade at the bottom of each Unit) as follows:

a. Units 1 and 2 – Wood Waste

The Discharger proposes excavating wood wastes from Units 1 and 2 and hauling them to a facility approved by the Executive Officer for re-use or disposal. If the Discharger wishes to haul wood waste to another facility or location, then the Discharger must first receive approval from the Executive Officer prior to modifying clean-closure operations.

The following information shall be reported with each Quarterly Facility Clean-Closure Monitoring Report:

- 1) Daily number of trucks transporting wood waste off-site.
- 2) Daily volume (cubic yards) and tonnage of wood waste hauled.
- 3) Copies of manifests or shipping papers from the approved end-use facility showing date of receipt and volume/tonnage of wood waste for each load.

b. Unit 4 – Wood Ash

The Discharger proposes excavating wood ash from Unit 4 and hauling recovered materials to agricultural lands for use as a soil amendment. In order to ensure that recovered materials from Unit 4 do not pose a threat to public health or the environment, the Discharger is required to characterize recovered materials prior to hauling them off-site.

One sample for every 500 cubic yards of wood ash (including the soil/rock/waste/mixture referred to as a spoils pile) excavated from Unit 4 shall be analyzed for the following constituents:

- pH
- Polycyclic Aromatic Hydrocarbons – Method 8310
- Total and Dissolved Metal Concentrations – (Aluminum, Antimony, Arsenic, Barium, Beryllium, Boron, Cadmium, Chromium, Chromium VI, Cobalt, Copper, Lead, Mercury, Molybdenum, Nickel, Selenium, Silver, Thallium, Vanadium, and Zinc) – Method 6010/7000 for all metals except Chromium VI, which is Method 7199. Dissolved analyses may use deionized water as the extractant.

Ash sample results shall be reviewed to determine proper classification of the material prior to hauling off-site. Only material classified as inert or non-hazardous solid waste may be hauled off-site for use as an agricultural soil amendment.

The following information shall be reported with each Quarterly Facility Clean-Closure Monitoring Report:

- 1) Provide the physical address or location where ash will be applied.
- 2) Provide property owner contact information including phone number and mailing address for location(s) where ash will be applied.
- 3) Report the tonnage and/or volume and date of ash application to each agricultural land location.
- 4) Provide laboratory analytical data for ash samples collected during the reporting period.
- 5) If rock is recovered from ash and cover soil, report the volume/tonnage that is collected and indicate locations of any stockpiles or final placement areas on a site map.

c. All Units - Soil/Rock/Waste Mix (Spoils Piles)

It is anticipated that layers of soil covering wastes in each Unit will be encountered during clean-closure activities. The Discharger plans on separating and collecting rock from the cover soil, at least in Units 1 and 2, for re-use on-site. Other residual materials (spoils) may also be collected and stored on-site.

It is anticipated that the spoils pile generated from Unit 4 will be hauled off in the same manner as the recovered wood ash. Additional laboratory characterization may be required for any Unit 4 spoils pile left on-site.

Spoils piles (except for rock) from Units 1 and 2 that remain on-site shall be tested for the same constituents as the confirmation sampling required for the native soil subgrade at the bottom of each Unit, which is listed below. One sample for every 200 cubic yards of spoils is required.

The following information shall be reported with each Quarterly Facility Clean-Closure Monitoring Report:

- 1) The Unit of origin and volume/tonnage of the any spoils piles left on-site.
- 2) For rock that is separated and recovered during processing operations, report the volume/tonnage that is collected and indicate locations of any stockpiles or final placement areas on a site map
- 3) All laboratory sample results for each spoils pile left on-site.
- 4) A map showing the final disposal location for each spoils pile. Note that spoils piles from Units 1 or 2 may not be disposed in Unit 4, and vice versa.

d. Solid Waste Disposal

It is anticipated that the Discharger will encounter non-hazardous solid wastes other than wood wastes and wood ash while clean-closing Units 1, 2, and 4. Other wastes that may be encountered include hazardous wastes, metal pieces, sanding belts, plastic debris, etc.

All wastes, other than wood wastes from units 1 and 2 and wood ash from Unit 4, shall be collected for appropriate off-site disposal at a permitted facility.

Hazardous wastes shall be properly labeled and transported to an appropriate disposal facility by a licensed hauler.

The following information shall be reported with each Quarterly Facility Clean-Closure Monitoring Report:

- 1) The Unit of origin and a description of the wastes collected for off-site disposal.
- 2) The volume and tonnage of wastes collected for off-site disposal.
- 3) Name of disposal facility and date of off-site disposal.
- 4) The disposal receipts, shipping papers, manifests, etc. documenting proper disposal.

e. Unit Confirmation Sampling

The goal of clean-closure is to physically remove all waste and contaminated materials from the Unit and from its underlying and surrounding environs, such that the waste in the Unit no longer poses a threat to water quality. A confirmation sampling program will be used at each Unit and each sediment detention basin to demonstrate that residual wastes no longer pose a threat to water quality. Clean-Closure Specification C.15 of Order No. _____ requires the Discharger to submit a Confirmation Sampling Plan that is acceptable to the Executive Officer.

Units and sediment detention basins shall be visually inspected to ensure the majority of waste has been physically removed. After the visual inspection confirms that no significant waste material remains, then the Discharger shall implement an approved confirmation sampling program. Sampling frequency shall be in accordance with the approved confirmation sampling program. The required analyses are based on the Unit or area being evaluated and the wastes that were contained within the Unit.

Analyses Required for Units 1 and 2 and Each Sediment Detention Basin

- Formaldehyde – Method 8315A
- Pentachlorophenol – Canadian Pulp Method
- 2,3,4,6 - Tetrachlorophenol – Canadian Pulp Method
- Polycyclic Aromatic Hydrocarbons – Method 8310
- Total and Dissolved Metal Concentrations – (Arsenic, Chromium, Chromium VI, Copper, Iron, Manganese, Vanadium, Zinc – Method 6010/7000 for all metals except Chromium VI, which is Method 7199. Dissolved analyses may use deionized water as the extractant.
- Volatile Organic Compounds – Method 8260B
- Semivolatile Organic Compounds (Acid Phenolics only) – Method 8270.

Analyses Required for Unit 4

- pH
- Polycyclic Aromatic Hydrocarbons – Method 8310
- Total and Dissolved Metal Concentrations – (Aluminum, Antimony, Arsenic, Barium, Beryllium, Boron, Cadmium, Chromium, Chromium VI, Cobalt, Copper, Lead, Mercury, Molybdenum, Nickel, Selenium, Silver, Thallium, Vanadium, and Zinc) – Method 6010/7000 for all metals except Chromium VI, which is Method 7199. Dissolved analyses may use deionized water as the extractant.
- Soluble Chloride (DI WET)
- Soluble Sodium (DI WET)
- Conductivity – Method 120.1 (DI Extract)

f. Storm Event Monitoring

Annually, prior to the anticipated rainy season, but no later than **30 September**, the Discharger shall conduct an inspection of the facility to determine whether the site is prepared for winter weather. The inspection shall assess damage to the drainage control system, groundwater monitoring equipment (including wells, etc.), and shall include the Standard Observations contained in Section E.4.f of Reporting Requirements below. Any necessary construction, maintenance, or repairs shall be completed **within 30 days of the inspection**.

Additionally, the Discharger shall inspect all precipitation, diversion, and drainage facilities for damage **within 7 days** following *major storm events*. Major storm events are defined as 1 inch or more of rainfall within a 24 hour period. The facility inspection shall include the Standard Observations contained in Section E.4.f of Reporting Requirements below. Necessary repairs shall be completed **within 30 days of the inspection**. The Discharger shall report the dates and results of these facility inspections in the corresponding Semiannual Groundwater, Surface Water, and Leachate Monitoring Report covering the period when observations were made.

E. REPORTING REQUIREMENTS

1. In the event the Discharger does not comply or will be unable to comply with any prohibition or limitation of this Order for any reason, the Discharger shall notify the appropriate Regional Board office by telephone **as soon as** it or its agents have knowledge of such noncompliance or potential for noncompliance, and shall confirm this notification in writing **within two weeks**. The written notification shall state the nature, time, and cause of noncompliance, and shall describe the measures being taken to prevent recurrences and shall include a timetable for corrective actions.
2. The Discharger shall retain records of all monitoring information, including all calibration and maintenance records, all original strip chart recordings of continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order. Records shall be maintained throughout the life of the facility including the post-clean-closure period.

Such legible records shall show the following for each sample:

- a. Sample identification and the monitoring point or background monitoring point from which it was taken, along with the identity of the individual who obtained the sample;
- b. Date, time, and manner of sampling;
- c. Date and time that analyses were started and completed, and the name of the personnel and laboratory performing each analysis;

- d. Complete procedure used, including method of preserving the sample, and the identity and volumes of reagents used;
 - e. Calculation of results; and
 - f. Results of analyses, and the MDL and PQL for each analysis.
3. A transmittal letter explaining the essential points shall accompany each quarterly Facility Clean-Closure Monitoring Report. At a minimum, the transmittal letter shall identify any violations found since the last report was submitted, and if the violations were corrected. If no violations have occurred since the last submittal, this shall be stated in the transmittal letter. The transmittal letter shall also state that a discussion of any violations found since the last report was submitted, and a description of the actions taken or planned for correcting those violations, including any references to previously submitted time schedules, is contained in the accompanying report.
4. Each Quarterly Facility Clean-Closure Monitoring Report and Semiannual Groundwater, Surface Water, and Leachate Monitoring Report shall include a **compliance evaluation summary**. The compliance evaluation summary shall include a discussion of progress with the clean-closure project. The summary shall contain at least:
- a. For each monitoring point and background monitoring point addressed by the report, a description of:
 - 1) The time of water level measurement;
 - 2) The type of pump - or other device - used for purging and the elevation of the pump intake relative to the elevation of the screened interval;
 - 3) The method of purging (the pumping rate; the equipment and methods used to monitor field pH, temperature, and conductivity during purging; the calibration of the field equipment; results of the pH, temperature, conductivity, and turbidity testing; and the method of disposing of the purge water) to remove all portions of the water that was in the well bore while the sample was being taken;
 - 4) The type of pump - or other device - used for sampling, if different than the pump or device used for purging; and
 - 5) A statement that the sampling procedure was conducted in accordance with the approved Sample Collection and Analysis Plan.
 - b. A map or aerial photograph showing the locations of observation stations, monitoring points, and background monitoring points.
 - c. For each groundwater body, a description and graphical presentation of the gradient and direction of groundwater flow under/around the Unit, and the groundwater flow rate,

based upon water level elevations taken prior to the collection of the water quality data submitted in the report.

- d. Laboratory statements of results of all analyses evaluating compliance with requirements.
- e. An evaluation of the effectiveness of the leachate monitoring and control facilities, and of the run-off/run-on control facilities.
- f. A summary and certification of completion of all **Standard Observations** for the Unit(s), for the perimeter of the Unit, and for the receiving waters. **The Standard Observations shall be performed at least weekly during the life of the clean-closure project.** The Standard Observations shall include:
 - 1) For the Unit:
 - a) Evidence of ponded water at any point on the facility (show affected area on map);
 - b) Evidence of odors - presence or absence, characterization, source, and distance of travel from source; and
 - c) Evidence of erosion and/or of day-lighted refuse.
 - 2) Along the perimeter of the Unit:
 - a) Evidence of liquid leaving or entering the Unit, estimated size of affected area, and flow rate (show affected area on map);
 - b) Evidence of odors - presence or absence, characterization, source, and distance of travel from source; and
 - c) Evidence of erosion and/or of day-lighted refuse.
 - 3) For receiving waters:
 - a) Floating and suspended materials of waste origin - presence or absence, source, and size of affected area;
 - b) Discoloration and turbidity - description of color, source, and size of affected area;
 - c) Evidence of odors - presence or absence, characterization, source, and distance of travel from source;
 - d) Evidence of water uses - presence of water-associated wildlife;

- e) Flow rate; and
 - f) Weather conditions - wind direction and estimated velocity, total precipitation during recent days and on the day of observation.
5. The Discharger shall report by telephone any seepage from the disposal area **immediately** after it is discovered. A written report shall be filed with the Regional Board **within seven days**, containing at least the following information:
- a. A map showing the location(s) of seepage;
 - b. An estimate of the flow rate;
 - c. A description of the nature of the discharge (e.g., all pertinent observations and analyses);
 - d. Verification that samples have been submitted for analyses of the Constituents of Concern and Monitoring Parameters, and an estimated date that the results will be submitted to the Regional Board; and
 - e. Corrective measures underway or proposed, and corresponding time schedule.
6. The Discharger shall submit an **Annual Monitoring Summary Report** to the Regional Board covering the reporting period of the previous monitoring year. This report shall contain:
- a. All monitoring parameters and constituents of concern shall be graphed so as to show historical trends at each monitoring point and background monitoring point, for all samples taken within at least the previous five calendar years. Each such graph shall plot the concentration of one or more constituents for the period of record for a given monitoring point or background monitoring point, at a scale appropriate to show trends or variations in water quality. The graphs shall plot each datum, rather than plotting mean values. For any given constituent or parameter, the scale for background plots shall be the same as that used to plot downgradient data. Graphical analysis of monitoring data may be used to provide significant evidence of a release.
 - b. Unless otherwise exempted by the Executive Officer, all monitoring analytical data obtained during the previous five calendar years shall be submitted in tabular form as well as in a digital file format acceptable to the Executive Officer. The Regional Board regards the submittal of data in hard copy and in digital format as "...the form necessary for..." statistical analysis [Title 27 CCR Section 20420(h)], in that this facilitates periodic review by the Regional Board.
 - c. A comprehensive discussion of the compliance record, and the result of any corrective actions taken or planned which may be needed to bring the Discharger into full compliance with the waste discharge requirements.

MONITORING AND REPORTING PROGRAM NO. R5-2007-0042
OROVILLE LANDFILL PROPERTIES, ET AL.
FOR CLEAN-CLOSURE OF
OROVILLE LANDFILL PROPERTIES CLASS III WOOD WASTE LANDFILL
BUTTE COUNTY

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- d. A map showing the areas where clean-closure activities occurred during the reporting period.
- e. A written summary describing the progress of the clean-closure project during the reporting period.
- f. An evaluation of the effectiveness of the leachate monitoring/control facilities.

The Discharger shall implement the above monitoring program on the effective date of this Program.

Ordered by

PAMELA C. CREEDON, Executive Officer

4 May 2007

(Date)

DPS: sae
5/14/2007

TABLE I
GROUNDWATER DETECTION MONITORING PROGRAM

<u>Parameter</u>	<u>Units</u>	<u>Frequency</u>
Field Parameters		
Groundwater Elevation	Ft. & hundredths, M.S.L.	Semiannually
Temperature	°C	Semiannually
Electrical Conductivity	µmhos/cm	Semiannually
pH	pH units	Semiannually
Turbidity	Turbidity units	Semiannually
Monitoring Parameters		
Total Dissolved Solids (TDS)	mg/L	Semiannually
Chloride	mg/L	Semiannually
Carbonate	mg/L	Semiannually
Bicarbonate	mg/L	Semiannually
Nitrate - Nitrogen	mg/L	Semiannually
Sulfate	mg/L	Semiannually
Calcium	mg/L	Semiannually
Magnesium	mg/L	Semiannually
Potassium	mg/L	Semiannually
Sodium	mg/L	Semiannually
Tannins and Lignins	mg/L	Semiannually
Formaldehyde	µg/L	Semiannually
(USEPA Method 8315)		
Pentachlorophenol	µg/L	Semiannually
(Canadian Pulp Method)		
2,3,4,6-Tetrachlorophenol	µg/L	Semiannually
(Canadian Pulp Method)		
Volatile Organic Compounds	µg/L	Semiannually
(USEPA Method 8260, see Table IV)		
Constituents of Concern (see Table IV)		
Total Organic Carbon	mg/L	*Annually
Inorganics (dissolved)	mg/L or µg/L	*Annually
Semi-Volatile Organic Compounds	µg/L	**5 years
(USEPA Method 8270C)		

* Annual samples shall be collected during the 4th calendar quarter of each year.

** The 5-year samples shall be collected during 4th quarter of 2007, and during the 4th calendar quarter every 5 years thereafter.

TABLE II
LEACHATE DETECTION MONITORING PROGRAM

<u>Parameter</u>	<u>Units</u>	<u>Frequency</u>
Field Parameters		
Total Flow	Gallons	Monthly
Flow Rate	Gallons/Day	Monthly
Electrical Conductivity	µmhos/cm	Monthly
pH	pH units	Monthly
Monitoring Parameters		
Total Dissolved Solids (TDS)	mg/L	*Annually
Chloride	mg/L	*Annually
Carbonate	mg/L	*Annually
Bicarbonate	mg/L	*Annually
Nitrate - Nitrogen	mg/L	*Annually
Sulfate	mg/L	*Annually
Calcium	mg/L	*Annually
Magnesium	mg/L	*Annually
Potassium	mg/L	*Annually
Sodium	mg/L	*Annually
Tannins and Lignins	mg/L	*Annually
Formaldehyde	µg/L	*Annually
(USEPA Method 8315)		
Pentachlorophenol	µg/L	*Annually
(Canadian Pulp Method)		
2,3,4,6-Tetrachlorophenol	µg/L	*Annually
(Canadian Pulp Method)		
Volatile Organic Compounds	µg/L	*Annually
(USEPA Method 8260, see Table IV)		
Constituents of Concern (see Table IV)		
Total Organic Carbon	mg/L	*Annually
Inorganics (dissolved)	mg/L or µg/L	*Annually
Semi-Volatile Organic Compounds	µg/L	*Annually
(USEPA Method 8270C)		

* Annual samples shall be collected during the 4th calendar quarter of each year. If there is an insufficient volume of leachate available during the 4th quarter, then samples shall be collected at the earliest possible date when sufficient volumes exist for sampling purposes.

TABLE III
SURFACE WATER DETECTION MONITORING PROGRAM

<u>Parameter</u>	<u>Units</u>	<u>Frequency</u>
Field Parameters		
Freeboard	Feet/Inches	Weekly or Monthly
Temperature	°C	Monthly
Electrical Conductivity	µmhos/cm	Monthly
pH	pH units	Monthly
Total Suspended Solids	mg/L	Monthly
Total Settleable Solids	ml/L	Monthly
Turbidity	Turbidity units	Monthly
Discharge Flow Rate	Gallons/Day	Monthly
Monitoring Parameters		
Total Dissolved Solids (TDS)	mg/L	*Semiannually
Total Organic Carbon	mg/L	*Semiannually
Tannins and Lignins	mg/L	*Semiannually
Formaldehyde (USEPA Method 8315)	µg/L	*Semiannually
Pentachlorophenol (Canadian Pulp Method)	µg/L	*Semiannually
2,3,4,6-Tetrachlorophenol (Canadian Pulp Method)	µg/L	*Semiannually
Volatile Organic Compounds (USEPA Method 8260, see Table IV)	µg/L	*Semiannually
Constituents of Concern (see Table IV)		
Inorganics (dissolved)	mg/L or µg/L	**Annually
Semi-Volatile Organic Compounds (USEPA Method 8270C)	µg/L	***5 years

* Semiannual samples shall be collected during the 2nd and 4th calendar quarters of each year.

** Annual samples shall be collected during the 4th calendar quarter of each year. If the detention basins contain no liquids during the 4th calendar quarter, then samples shall be collected at the earliest possible date when sufficient volumes exist for sampling purposes.

*** The 5-year samples shall be collected during 4th quarter of 2007, and during the 4th calendar quarter every 5 years thereafter.

TABLE IV

CONSTITUENTS OF CONCERN & APPROVED USEPA ANALYTICAL METHODS

<u>Inorganics (dissolved):</u>	<u>USEPA Method</u>
Cadmium	7131A
Total Chromium	6010
Chromium VI	3500
Copper	6010
Zinc	6010
Iron	6010
Manganese	6010
Arsenic	7062
Lead	7421
Mercury	7470A
Nickel	7521
Cyanide	9010B
Sulfide	9030B

Volatile Organic Compounds:

USEPA Method 8260

Acetone
Acetonitrile (Methyl cyanide)
Acrolein
Acrylonitrile
Allyl chloride (3-Chloropropene)
Benzene
Bromochloromethane (Chlorobromomethane)
Bromodichloromethane (Dibromochloromethane)
Bromoform (Tribromomethane)
Carbon disulfide
Carbon tetrachloride
Chlorobenzene
Chloroethane (Ethyl chloride)
Chloroform (Trichloromethane)
Chloroprene
Dibromochloromethane (Chlorodibromomethane)
1,2-Dibromo-3-chloropropane (DBCP)
1,2-Dibromoethane (Ethylene dibromide; EDB)
o-Dichlorobenzene (1,2-Dichlorobenzene)
m-Dichlorobenzene (1,3-Dichlorobenzene)
p-Dichlorobenzene (1,4-Dichlorobenzene)
trans- 1,4-Dichloro-2-butene
Dichlorodifluoromethane (CFC 12)
1,1 -Dichloroethane (Ethylidene chloride)

TABLE IV

CONSTITUENTS OF CONCERN & APPROVED USEPA ANALYTICAL METHODS

Continued

1,2-Dichloroethane (Ethylene dichloride)
1,1 -Dichloroethylene (1, 1-Dichloroethene; Vinylidene chloride)
cis- 1,2-Dichloroethylene (cis- 1,2-Dichloroethene)
trans- 1,2-Dichloroethylene (trans- 1,2-Dichloroethene)
1,2-Dichloropropane (Propylene dichloride)
1,3-Dichloropropane (Trimethylene dichloride)
2,2-Dichloropropane (Isopropylidene chloride)
1,1 -Dichloropropene
cis- 1,3-Dichloropropene
trans- 1,3-Dichloropropene
Di-isopropylether (DIPE)
Ethanol
Ethyltertiary butyl ether
Ethylbenzene
Ethyl methacrylate
Hexachlorobutadiene
Hexachloroethane
2-Hexanone (Methyl butyl ketone)
Isobutyl alcohol
Methacrylonitrile
Methyl bromide (Bromomethane)
Methyl chloride (Chloromethane)
Methyl ethyl ketone (MEK; 2-Butanone)
Methyl iodide (Iodomethane)
Methyl t-butyl ether
Methyl methacrylate
4-Methyl-2-pentanone (Methyl isobutyl ketone)
Methylene bromide (Dibromomethane)
Methylene chloride (Dichloromethane)
Naphthalene
Propionitrile (Ethyl cyanide)
Styrene
Tertiary amyl methyl ether
Tertiary butyl alcohol
1,1,1,2-Tetrachloroethane
1,1,2,2-Tetrachloroethane
Tetrachloroethylene (Tetrachloroethene; Perchloroethylene; PCE)
Toluene
1,2,4-Trichlorobenzene
1,1,1 -Trichloroethane, Methylchloroform
1,1,2-Trichloroethane
Trichloroethylene (Trichloroethene; TCE)
Trichlorofluoromethane (CFC- 11)
1,2,3-Trichloropropane
Vinyl acetate

TABLE IV
CONSTITUENTS OF CONCERN & APPROVED USEPA ANALYTICAL METHODS

Continued

Vinyl chloride (Chloroethene)
Xylene (total)

Semi-Volatile Organic Compounds:

USEPA Method 8270 - base, neutral, & acid extractables

Acenaphthene
Acenaphthylene
Acetophenone
2-Acetylaminofluorene (2-AAF)
Aldrin
4-Aminobiphenyl
Anthracene
Benzo[a]anthracene (Benzanthracene)
Benzo[b]fluoranthene
Benzo[k]fluoranthene
Benzo[g,h,i]perylene
Benzo[a]pyrene
Benzyl alcohol
Bis(2-ethylhexyl) phthalate
alpha-BHC
beta-BHC
delta-BHC
gamma-BHC (Lindane)
Bis(2-chloroethoxy)methane
Bis(2-chloroethyl) ether (Dichloroethyl ether)
Bis(2-chloro-1-methylethyl) ether (Bis(2-chloroisopropyl) ether; DCIP)
4-Bromophenyl phenyl ether
Butyl benzyl phthalate (Benzyl butyl phthalate)
Chlordane
p-Chloroaniline
Chlorobenzilate
p-Chloro-m-cresol (4-Chloro-3-methylphenol)
2-Chloronaphthalene
2-Chlorophenol
4-Chlorophenyl phenyl ether
Chrysene
o-Cresol (2-methylphenol)
m-Cresol (3-methylphenol)
p-Cresol (4-methylphenol)
4,4'-DDD
4,4'-DDE
4,4'-DDT
Diallate
Dibenz[a,h]anthracene

TABLE IV

CONSTITUENTS OF CONCERN & APPROVED USEPA ANALYTICAL METHODS

Continued

Dibenzofuran
Di-n-butyl phthalate
3,3'-Dichlorobenzidine
2,4-Dichlorophenol
2,6-Dichlorophenol
Dieldrin
Diethyl phthalate
p-(Dimethylamino)azobenzene
7,12-Dimethylbenz[a]anthracene
3,3'-Dimethylbenzidine
2,4-Dimethylphenol (m-Xylenol)
Dimethyl phthalate
m-Dinitrobenzene
4,6-Dinitro-o-cresol (4,6-Dinitro-2-methylphenol)
2,4-Dinitrophenol
2,4-Dinitrotoluene
2,6-Dinitrotoluene
Di-n-octyl phthalate
Diphenylamine
Endosulfan I
Endosulfan II
Endosulfan sulfate
Endrin
Endrin aldehyde
Ethyl methanesulfonate
Famphur
Fluoranthene
Fluorene
Heptachlor
Heptachlor epoxide
Hexachlorobenzene
Hexachlorocyclopentadiene
Hexachloropropene
Indeno(1,2,3-c,d)pyrene
Isodrin
Isophorone
Isosafrole
Kepone
Methapyrilene
Methoxychlor
3-Methylcholanthrene
Methyl methanesulfonate
2-Methylnaphthalene
1,4-Naphthoquinone

TABLE IV

CONSTITUENTS OF CONCERN & APPROVED USEPA ANALYTICAL METHODS

Continued

1-Naphthylamine
2-Naphthylamine
o-Nitroaniline (2-Nitroaniline)
m-Nitroaniline (3-Nitroaniline)
p-Nitroaniline (4-Nitroaniline)
Nitrobenzene
o-Nitrophenol (2-Nitrophenol)
p-Nitrophenol (4-Nitrophenol)
N-Nitrosodi-n-butylamine (Di-n-butylNitrosamine)
N-Nitrosodiethylamine (DiethylNitrosamine)
N-Nitrosodimethylamine (DimethylNitrosamine)
N-Nitrosodiphenylamine (DiphenylNitrosamine)
N-Nitrosodipropylamine (N-Nitroso-N-dipropylamine; Di-n-propylNitrosamine)
N-Nitrosomethylethylamine (MethylethylNitrosamine)
N-Nitrosopiperidine
N-Nitrosopyrrolidine
5-Nitro-o-toluidine
Pentachlorobenzene
Pentachloronitrobenzene (PCNB)
Pentachlorophenol
Phenacetin
Phenanthrene
Phenol
p-Phenylenediamine
Polychlorinated biphenyls (PCBs; Aroclors)
Pronamide
Pyrene
Safrole
1,2,4,5-Tetrachlorobenzene
2,3,4,6-Tetrachlorophenol
o-Toluidine
Toxaphene
2,4,5-Trichlorophenol
0,0,0-Triethyl phosphorothioate
sym-Trinitrobenzene

INFORMATION SHEET

ORDER NO. R5-2007-0042
OROVILLE LANDFILL PROPERTIES, ET AL.
FOR CLEAN-CLOSURE OF
OROVILLE LANDFILL PROPERTIES CLASS III WOOD WASTE LANDFILL
BUTTE COUNTY

The Oroville Landfill Properties Class III Wood Waste Landfill is located approximately three miles south of Oroville. The site is owned by Oroville Landfill Properties, Oroville Landfill Properties LLC, Jack M. Steebles LLC, Carol Ann Seidenglanz LLC, and Steven Conn Seidenglanz LLC (hereafter Oroville Landfill Properties, et al. or Discharger). The site began operations in 1973 under the former ownership of Louisiana-Pacific Corporation. In September 2002, Oroville Landfill Properties et al purchased the site.

Three waste management units (Units) exist at the 105 acre facility. Units 1 and 2 were used for disposal of wood waste and Unit 4 was used for disposal of ash from a nearby wood fired cogeneration facility. No wastes have been disposed at the site since 2001.

Four major geologic units have been identified beneath the site. The units that have been identified from the top of the meta-volcanic bedrock to the ground surface are the Lone Formation, the Merhten Formation, the Nomlaki Tuff, and the Laguna Formation. With the exception of the volcanic Nomlaki Tuff, the units are composed of Cenozoic flood deposits from the current and ancestral Feather River System. The Laguna and Merhten Formations contain water bearing sands and gravels that are commonly separated by interbedded clayey aquitards.

Four monitoring wells make up the groundwater detection monitoring system. First encountered groundwater is between 75 and 140 feet below the native ground surface. Groundwater flow at the site is generally towards the southwest.

The Discharger proposes to clean-close the landfill and transport recovered materials to locations or facilities approved by the Executive Officer for re-use or disposal. Once the clean-closure project is complete, the Discharger will implement appropriate erosion and sediment control best management practices until the site is stabilized. Two years of post-clean-closure groundwater monitoring is also required after completion of the clean-closure project. The Discharger will no longer be subject to waste discharge requirements or post-closure maintenance after completion of the clean-closure project is approved. This revised Order allows for clean-closure of the Oroville Landfill Properties Class III Wood Waste Landfill.

EXHIBIT B



California Regional Water Quality Control Board
Central Valley Region

Karl E. Longley, ScD, P.E., Chair.



Linda S. Adams
Secretary for
Environmental Protection

Redding Office
415 Knollcrest Drive, Suite 100, Redding, California 96002
(530) 224-4845 • Fax (530) 224-4857
<http://www.waterboards.ca.gov/centralvalley>

Arnold Schwarzenegger
Governor

11 June 2007

CERTIFIED MAIL

7004 0750 0001 7892 9700

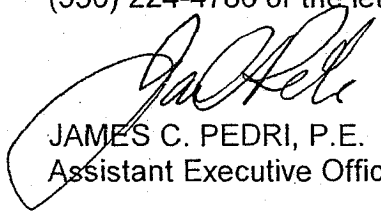
Mr. Steven Seidenglanz
Oroville Landfill Properties, et al.
4801 Feather River Blvd., #3
Oroville, CA 95965

**NOTICE OF ADOPTION OF WASTE DISCHARGE REQUIREMENTS ORDER
NO. R5-2007-0042, OROVILLE LANDFILL PROPERTIES CLASS III WOOD WASTE LANDFILL,
BUTTE COUNTY**

Waste Discharge Requirements Order No. R5-2007-0042 for Oroville Landfill Properties, et al., allowing clean-closure of the Oroville Landfill Properties Class III Wood Waste Landfill, were adopted by the California Regional Water Quality Control Board, Central Valley Region (Regional Water Board) on 4 May 2007. In order to conserve paper and postage, only one paper copy is being provided to you as the Discharger. Electronic copies of the Order are available on the Regional Water Board's Internet site at http://www.waterboards.ca.gov/centralvalley/adopted_orders/index.html. Those without Internet access can request a paper copy by contacting Regional Water Board staff.

Additionally, the 23 May 2007 letter from you legal council requesting release of \$1,427,218.00 in postclosure maintenance financial assurances is still being reviewed and will be responded to under separate cover.

If you have any questions regarding the adopted Order, please contact Dale Stultz of my staff at (530) 224-4786 or the letterhead address.


JAMES C. PEDRI, P.E.
Assistant Executive Officer

DPS: sae

Enclosures: Adopted Order (Discharger only)
Standard Provisions (Discharger only)

cc: Ms. Elizabeth Babcock, Division of Clean Water Programs, SWRCB, Sacramento
Ms. Frances McChesney, Office of Chief Council, SWRCB, Sacramento
Mr. Scott Walker, CIWMB, Sacramento
Department of Fish and Game, Region 2, Rancho Cordova
Mr. Mike Huerta, Butte County Environmental Health Division, Chico
Ms. Linda Taverner, SCS Engineers, Santa Rosa
Mr. Ambrose McCready, SCS Engineers, Sacramento
Mr. Scott Steever, Lanahan Reilley LLP, Santa Rosa
Kerry Seidenglanz, Sun Valley

Oroville Landfill Adopted 3 May Transmittal

California Environmental Protection Agency



Recycled Paper

EXHIBIT C

SCS ENGINEERS

April 28, 2006
File No. 01203196.00

Mr. James C. Pedri, P.E.
Assistant Executive Officer
California Regional Water Quality Control Board
Central Valley Region
415 Knollcrest, Suite 100
Redding, California 96002

Subject: Response to Information Request, March 15, 2006
Oroville Landfill Properties
Oroville Class III Landfill, Butte County

Dear Mr. Pedri:

This letter and enclosed documentation are being submitted by SCS Engineers (SCS) on behalf of Mr. Steven Seidenglanz of the Oroville Landfill Properties. These documents are in response to the March 15, 2006 California Regional Water Quality Control Board, Central Valley Region request for additional information pertaining to the proposed Clean Closure of the Oroville Class III Landfill.

In addition to providing responses to your requested information, Oroville Landfill Properties would like to make two changes to the proposed Clean Closure Plan as follows:

1. The addition of onsite wood waste composting to the potential list of end uses for the materials to be removed from the Class III Landfill. We are aware that a composting permit from the California Integrated Waste Management Board and associated documentation and approvals will be required.
2. The removal of approximately 51 acres of land currently within the permitted landfill boundary, but not impacted by wood waste disposal. This land could be used for development unrelated to the landfill. A map of the proposed land to be removed is included in Section 8 of the information.

We trust that the additional information provided in this submittal meets RWQCB's needs at this time. It is requested that the contents of this communication remain confidential.

Please call the undersigned with questions.



Mr. James C. Pedri, P.E.

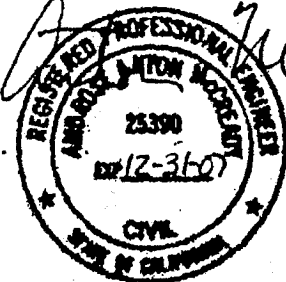
April 28, 2006

Page 2

Very truly yours,


Ambrose A. McCready, P.E.

Project Manager
SCS ENGINEERS



Enclosure

cc Kerry Seidenglanz
 Linda Mackey

6. *Submit a detailed estimate of costs associated with material recovery operations, including postclosure monitoring. Cost estimates should not take into account potential revenue from sales of recovered materials. Once the cost estimates are approved, Oroville Landfill Properties, et al, will be required to demonstrate financial assurances in the amount of the approved cost estimates. These financial assurances are in addition to those already in place demonstrating adequate financial resources for known or reasonably foreseeable releases. This action will be required prior to receiving approval for the clean-closure project.*

A detailed cost estimate has been prepared for removal and processing of materials at the Oroville Landfill Properties. OLP, Inc. is of the opinion that clean closure financial obligations should not be the same as for a closed landfill due to the value of the product that is in the landfills. A credit of \$5.00 per cy should be applied to arrive at the financial obligation. The postclosure period for the clean closure is 5 years. Long-term monitoring and maintenance is not anticipated since the site will be used for future development. The estimated financial assurance would be \$236,000.

7. *Submit a list of all other agency permits and approvals necessary for undertaking the clean closure project. Include a status update and anticipated agency approval dates for each required permit or approval. All necessary agency permits and approvals must be obtained prior to initiating the clean closure project. At a minimum, determine whether State or local Use Permits, Grading Permits, Air Quality Permits, Solid Waste Facility Permits and/or Composting Permits are necessary and determine whether compliance with the California Environmental Quality Act has been met.*

<u>Regulatory Agency</u>	<u>Permit</u>	<u>Status</u>
California Regional Water Quality Control Board	WDR	Inprogress
California Integrated Waste Management Board	Compost	NS
Local Enforcement Agency	NA	NA
Butte County Department of Public Works	NA	NA
Butte County Building Department	Grading	NS
Butte County Air Quality Management District	PM10	NS
California Environmental Quality Act	IS/ND	NS

Legend

IS/ND – Initial Study/Negative declaration

NA – Not Apply

NS – Not Started

SECTION 6

COST SUMMARY

Excavate and Stockpile	\$2.24/cy
Screen or Grind (50%)	\$1.25/cy
Laboratory Testing	\$0.38/cy
Management and Oversight	\$1.40/cy
Leachate Disposal	\$0.11/cy
Total Cost per CY	\$5.38/cy

Value of Wood Waste

Stockpiled or Processed	\$5.00/cy
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Net Cost

Cost of Processing	\$5.38/cy
Value of Wood Waste	<u>\$5.00/cy</u>
Net Cost	\$0.38/cy

$$\text{Clean Closure Cost} = \frac{\$0.38}{\text{cy}} (365,000 \text{ cy})$$

$$= \$138,700$$

$$\begin{aligned} \text{Post Closure Monitoring} &= 5 \text{ years } (\$25,000/\text{yr}) \\ &= \$125,000 \end{aligned}$$

Excavate and Stockpile Wood Waste

Front End Loader	\$125/Hr
Back Dump Truck	\$45/Hr
Loads per Hour	6 (10 min cycle time)
Volume per Load	8 cy

$$\text{Cost per CY} = \frac{\$125/\text{Hr} + 2(\$45/\text{Hr})}{12 \frac{\text{Ld}}{\text{Hr}} \times 8 \frac{\text{CY}}{\text{Ld}}} = \$2.24/\text{CY}$$

Screen or Grind Wood Waste

Front End Loader	\$125/Hr
Screen or Tub Grinder	\$125/Hr
Volume per Hour	50 cy

$$\text{Cost per CY} = \frac{\$125/\text{Hr} + \$125/\text{Hr}}{100 \text{ CY}/\text{Hr}} = \$2.50/\text{CY}$$

Laboratory Testing

Testing Cost	\$750/Sa
Frequency	1 Sa/2,000 cy

$$\text{Cost per CY} = \frac{\$750}{2,000 \text{ CY}} = \$0.375$$

Management and Oversight

Site Supervisor

\$45/Hr

Consultants

\$100/Hr

Volume per Hour

400 Cy/Day

$$\begin{aligned}\text{Cost per Cy} &= \frac{(8 \text{ Hr} \times \$45/\text{Hr}) + 2 \text{ Hr} (\$100/\text{Hr})}{400 \text{ Cy}} \\ &= \$1.40/\text{Cy}\end{aligned}$$

Leachate Disposal

Collection

\$0.50/Gal

Transport

\$0.25/Gal

Disposal at Treatment Plant

\$0.10/Gal

Gallons per Day

50 Gal

$$\begin{aligned}\text{Cost per Cy} &= \frac{50 \text{ Gal} (\$0.85/\text{Gal})}{400 \text{ Cy}} \\ &= \$0.11/\text{Cy}\end{aligned}$$



California Regional Water Quality Control Board

Central Valley Region



Linda Adams
Secretary

Redding Branch Office
415 Knollcrest Drive, Suite 100, Redding, California 96002
Phone (530) 224-4845 • FAX (530) 224-4857
<http://www.waterboards.ca.gov>

Arnold Schwarzenegger
Governor

26 May 2006

Mr. Steven Seidenglanz
Oroville Landfill Properties, et al
4801 Feather River Blvd., #3
Oroville, CA 95965

CERTIFIED MAIL
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REQUEST FOR INFORMATION PURSUANT TO SECTION 13267 OF THE CALIFORNIA WATER CODE, OROVILLE LANDFILL PROPERTIES, ET AL, OROVILLE LANDFILL PROPERTIES CLASS III WOOD WASTE LANDFILL, BUTTE COUNTY

In our 15 March 2006 letter, Oroville Landfill Properties, et al, was requested to submit information pursuant to Section 13267 of the California Water Code regarding the proposed clean-closure project at Oroville Landfill Properties Class III Wood Waste Landfill. On 1 May 2006, the 28 April 2006 *Response to Request for Additional Information California Regional Water Quality Control Board March 15 2006* was received. This document contains, in part, cost estimates for clean-closing and post-closure monitoring of the landfill.

Subsequent staff review of financial assurance sections contained in Title 27, California Code of Regulations (CCR) finds that there is no means for demonstrating financial assurances for "clean-closure activities". However, Title 27, CCR, Chapter 6, Subchapter 2, Articles 1 and 2, beginning with Section 22205, requires Dischargers of Class III waste management units to demonstrate the availability of financial resources to conduct closure and post-closure maintenance activities.

On 25 February 2004, Oroville Landfill Properties, et al, submitted cost estimates for closure, post-closure maintenance, and reasonably foreseeable releases from Oroville Landfill Properties Class III Wood Waste Landfill. In that document, closure cost estimates amounted to \$1,255,097.97 and post-closure cost estimates amounted to \$1,372,530.00. These cost estimates need to be updated to reflect current closure and post-closure maintenance costs.

Please submit **by 20 June 2006** updated closure and post-closure maintenance costs for Units 1, 2, and 4 at the Oroville Landfill Properties Class III Wood Waste Landfill using the California Integrated Waste Management Board's Closure Cost Estimate Worksheet CIWMB 179. Once the closure and post-closure cost estimates are approved, Oroville Landfill Properties, et al, will be required to demonstrate financial resources in the amounts of the approved estimates using one of the available mechanisms listed in the Financial Assurances section of Title 27, CCR. Be sure to name the Central Valley Water Board as beneficiary in the irrevocable closure and post-closure maintenance fund mechanism that Oroville Landfill Properties, et al,

California Environmental Protection Agency

chooses to demonstrate the financial assurances, pursuant to Title 27, CCR, Sections 22207 and 22212, respectively.

This request for information is made pursuant to Section 13267 of the California Water Code (CWC), which authorizes the Central Valley Water Board to require any person who has discharged wastes to submit technical reports or information the Central Valley Water board finds necessary. Failure to submit requested information or technical reports may result in the assessment of up to one thousand dollars (\$1,000) per day for each day the report or information is late, pursuant to Section 13268 of the CWC.

If you have any questions, please contact Dale Stultz of my staff at (530) 224-4786 or the letterhead address.



JAMES C. PEDRI, P.E.
Assistant Executive Officer

DPS: kt

cc: Scott Walker, CIWMB, Sacramento
Michael Huerta, Butte County Environmental Health Department, Chico
Jo Sherman, City of Oroville Planning Division, Oroville
Ambrose McCreedy, SCS Engineers, Sacramento
Linda Mackey, SCS Engineers, Santa Rosa
Kerry Seidenglanz, Sun Valley



California Regional Water Quality Control Board
Central Valley Region

Karl E. Longley, ScD, P.E., Chair.



Linda S. Adams
Secretary for
Environmental Protection

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<http://www.waterboards.ca.gov/centralvalley>

Arnold Schwarzenegger
Governor

5 July 2007

Mr. Scott L. Steever
Lanahan Reilly LLP
600 Bicentennial Way, Suite 300
Santa Rosa, CA 95403

OROVILLE LANDFILL PROPERTIES, et al., CLASS III WOOD WASTE LANDFILL, WASTE DISCHARGE REQUIREMENTS ORDER NO. R5-2007-0042, BUTTE COUNTY

This letter responds to your 23 May 2007 letter requesting the immediate release of \$1,427,218.00 in post-closure maintenance financial assurances for the above referenced facility. As you are aware, Oroville Landfill Properties, et al. (hereafter Discharger) posted a letter of credit dated 29 September 2006 in the amount of \$3,133,494.00. The total amount of the letter of credit adequately demonstrates financial assurances for closure costs (\$1,602,376.00), postclosure maintenance costs (\$1,427,218.00), and corrective action costs (\$103,900) associated with known or reasonably foreseeable releases from the landfill.

Title 27 of the California Code of Regulations (hereafter Title 27), Section 22205 requires operators of solid waste landfills to "demonstrate the availability of financial resources to conduct closure activities." Title 27, Section 20164 defines an Operator as,

"the landowner or other person who through a lease, franchise agreement or other arrangement with the landowner becomes legally responsible to the State for including but not limited to, the following requirements for a solid waste facility or disposal site:

- obtaining a solid waste facility permit;
- complying with all applicable federal, state, and local requirements;
- the physical operation of the facility or site; and
- closing and maintaining the site during the postclosure maintenance period."

Please note that the Operator for the Oroville Landfill Properties Class III Wood Waste Landfill is also the Discharger named in Waste Discharge Requirements (WDR) Order No. R5-2007-0042.



Title 27, Section 22210 "requires operators of solid waste landfills to demonstrate the availability of financial resources to conduct postclosure maintenance activities." Title 27, Section 22220 "requires operators of disposal facilities to demonstrate the availability of financial resources to conduct corrective action activities as required under Article 1, Subchapter 3, Chapter 3, (§20380 et seq.)."

Title 27, Sections 22207(a), 22212(a), and 22222 grant authority to the Regional Water Quality Control Board to require financial assurances for closure, postclosure maintenance, and corrective action, respectively, at solid waste facilities or waste management units not regulated by the California Integrated Waste Management Board (CIWMB). The CIWMB does not provide oversight for wood waste disposal facilities, such as the Oroville Class III Wood Waste Landfill.

The requirements to demonstrate financial resources for closure, postclosure maintenance, and corrective action were explained to the Discharger in a meeting with California Regional Water Quality Control Board, Central Valley Region (hereafter Regional Water Board) staff prior to their purchase of the landfill from Louisiana-Pacific Corporation, and again in a 5 November 2002 letter from Regional Water Board staff.

Based on applicable provisions of Title 27, Division 2, Subdivision 1, Chapter 6, the request to release \$1,427,218.00 in postclosure maintenance financial assurances is denied. The Discharger interprets 27 CCR Section 20950(f) as precluding the Regional Water Board from requiring postclosure financial assurances beyond those required for a successful clean closure of their Oroville facility. This interpretation is overly narrow. While the clean closure provisions may release the discharge from their responsibility to conduct thirty years worth of groundwater monitoring after completing a clean closure operation that is deemed successful by the Regional Water Board pursuant to 27 CCR Section 21090(f), they do not restrict the Regional Water Board's ability to require financial assurances that provide for the reasonably foreseeable possibility that the clean closure is unsuccessful.

However, as Regional Water Board staff have indicated in the past, the Discharger may propose disbursement of \$1,602,376.00 in closure financial assurances based on achieving specific clean-closure project milestones. Proposed milestones for the project should be submitted to Regional Water Board staff for review and approval. Upon approval, the Discharger may request disbursements of the closure fund financial assurances once the approved milestones are completed. Financial assurances for postclosure maintenance and corrective action will be released when it is demonstrated that residual wastes at the site no longer pose a threat to water quality, the environment, and public health.

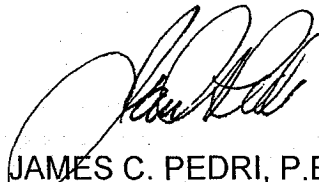
Additionally, Regional Water Board staff mistakenly requested updated cost estimates and proof of financial assurances for initiating and completing corrective action in WDR Order No. R5-2007-0042 because it was not readily apparent that the \$103,900.00 for corrective action financial assurances was rolled into the total sum of \$3,133,494.00 demonstrated in Irrevocable Letter of Credit No. 1654. Therefore, Provision 10 in WDR Order No. R5-2007-0042, regarding submittal of updated cost estimates and demonstrations of adequate financial assurances for initiating and completing corrective action has already been satisfied.



The Discharger is still responsible for calculating increases to the cost estimates for closure, postclosure maintenance, and corrective action based on the annual inflation factor for the previous year, in accordance with Title 27, Section 22236 and WDR Order No. R5-2007-0042.

The report calculating cost estimate increases is due **by 1 June annually during the life of the clean-closure project**. However, due to the late transmittal of new WDR Order No. R5-2007-0042, the annual inflation factor calculation for this year may be submitted **by 1 August 2007**. The Discharger will still need to increase the amount of the financial assurances for closure, post-closure maintenance, and corrective action based on the annual inflation factor calculation **by 15 September 2007 and annually by 1 August thereafter during the life of the clean-closure project**.

If you have any questions, please contact Dale Stultz of my staff at (530) 224-4786 or the letterhead address.



JAMES C. PEDRI, P.E.
Assistant Executive Officer

DPS: sae

cc: Frances McChesney, Office of Chief Council, SWRCB, Sacramento
Steven Seidenglanz, Oroville Landfill Properties, et al., Oroville
Ambrose McCreedy, SCS Engineers, Sacramento
Linda Taverner, SCS Engineers, Santa Rosa
Kerry Seidenglanz, Sun Valley

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PROOF OF SERVICE

I am a citizen of the United States. My business address is 600 Bicentennial Way, Suite 300, Santa Rosa, California, 95403. I am employed in the county of Sonoma where this service occurs. I am over the age of 18 years and not a party to the within cause.

On July 10, 2007, I served the following documents(s) described as:

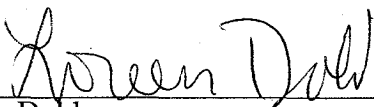
PETITION FOR REVIEW OF WASTE DISCHARGE REQUIREMENTS AND REQUEST TO PRESENT SUPPLEMENTAL EVIDENCE UNDER 22 CCR SECTION 2050.6

- ☐ **BY MAIL:** I am readily familiar with my employer's normal business practice of collection and processing of correspondence for mailing. Under that practice, correspondence is deposited with the U.S. Postal Service that same day in a sealed envelope(s) with postage thereon fully prepaid at Santa Rosa, California, in the ordinary course of business.
- ☐ **BY FAX:** I served said document(s) by transmitting via facsimile from facsimile number (707) 523-4610 to the facsimile number(s) set forth below, or as stated on the attached service list, on this date before 5:00 p.m. A statement that this document was successfully transmitted without error is hereby attached to the Proof of Service.
- ☐ **BY PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s).
- ☒ **BY OVERNIGHT DELIVERY:** I caused such envelope(s) to be delivered on the same day to an authorized courier or driver or to a regular box or other facility regularly maintained by **FEDERAL EXPRESS** with delivery fees provided for, addressed to the person(s) on whom it is to be served.

James C. Pedri, P.E.
California Regional Water Quality Control Board
Central Valley Region, Redding Branch Office
415 Knollcrest Drive, Suite 100
Redding, CA 96002

- ☒ **STATE:** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 10, 2007, at Santa Rosa, California.


Loreen Dold